



Citizenship policies in the age of diversity: Europe at the crossroads  
Ricard Zapata-Barrero (ed.)

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COLECCIÓN MONOGRAFÍAS

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### **Introduction: Citizenship policy rhetoric for managing questions of diversity**

While confronting a certain sense of crisis in the management of immigrant diversity, many European States are opting for a citizenship-based policy approach. The current debate suggests that we are facing an important change of direction. The category of citizenship is entering the political agenda of most European states as a policy for managing diversity. This political link was already fuelling academic debates during the two last decades of the 20<sup>th</sup> century, but now it is crossing the academic realm and entering into that of policy. This shift constitutes the basic framework of this book. European states are using citizenship as a policy response to the multicultural crisis. In accordance with M. Walzer's (1983) seminal work on distributive justice, states are becoming aware of the fact that citizenship is a primary good for allocating membership to a political community. The re-definition or consolidation of the old institution of citizenship touches on important normative questions of political membership in diverse societies, as it modifies the relation between national identity and formal political membership. As for a state's authority to decide who may enter national territory (the territorial border where migrants become immigrants), the allocation of citizenship is one of the major bastions of nation-states' sovereignty in the management of immigration. Citizenship is not only a device for sorting out "wanted" and "unwanted" migrants, it also establishes a second gateway that immigrants have to pass through in order to become full members of the polity (R. Bauböck et al., 2006; eds.; 6).

While integration debates in Europe used to be about the tension between diversity and equality, the latter has been replaced by national unity. This revival of nationalism or neo-nationalism as P. Mouritsen puts forward (2008; 9-13) goes back to the heart of the complex concept of citizenship, which not only refers to a status of membership and the rights which such membership entails, but is also about identification with shared national values. In sum, the category of citizenship is becoming a powerful tool in the hands of nation-states for managing the question of "who belongs" in the age of diversity.

In this introductory chapter, my aim is to make a diagnosis of the current situation (section 2), and highlight the distinguishing features of the European context (section 3), before reviewing the main arguments of the current policy debate (section 4). I will finish up with an overview of the main contributions made in this book (section 5).

### Stating the diagnosis: citizenship policy as a political response to the multiculturalism crisis in Europe

1. See the first published works framing this new context of the “crisis of multiculturalism”: C. Joppke and S. Lukes (1999), J. Levy (2000), B. Barry (2001), R. Brubaker (2001), C. Joppke and E. Morawska (2003), A. Favell and T. Modood (2003), C. Joppke (2004), B. Turner (2006), A. Triandafyllidou, T. Modood and R. Zapata-Barrero (2006), B. Turner (2006), Ch. Taylor (2007), T. Modood (2007), R. Zapata-Barrero (2009)
2. See, for example, for Britain: Home Office (2002); for France: Cour des Comptes (2004)

The specific goal of this book is to highlight the main Lines of analysis of the citizenship policy rhetoric, which invites us to either re-define or consolidate the category of citizenship. It is relevant that many European states are using the citizenship rhetoric to legitimate a restrictive policy based on a revival of a 19<sup>th</sup>-century state nationalism, which requires immigrants to pass a citizenship test before being allowed access to rights of residence and/or citizenship (for example, the Netherlands, Denmark, Germany, United Kingdom, France). The European debate is wide open. It is now at a crossroads. While the category of citizenship is losing its emancipatory dimension and progressive legacy of the 20<sup>th</sup> century, based on social movements and conflict, it is now used in its more conservative and nationalist dimension. Now, it seems that citizenship should activate its effective “exclusivist dimension” if the category does not want to be devaluated. Opposing the reactive, conservative and exclusive waves that wish to preserve the sacred holy bond between citizenship and nationality, and which guide most European citizenship policies, there is a proactive, progressive and inclusive approach which functions as a “de-sacralised tool” against the traditional link between citizenship and nationality. What distinguishes this new stage, this age of diversity, is that we are currently witnessing a transfer from a theoretical debate to a policy action. We are witnessing a citizenship policy building process, which is highly reactive. Why this citizenship policy rhetoric here (Europe) and now (within the crisis of multicultural policy approaches)? Who are nation-states reacting against? Against a “diverse-other” or against a “we” that is also becoming diverse?

Let me respond to the “here” question. The multicultural crisis is European, since multiculturalism challenges are related to the perceived lack of integration of immigrants. Immigration poses important challenges to the category of citizenship because it problematizes not only the traditional basis of membership in liberal democracies, but also the cultural and political boundaries of the nation-state. After a wave of theoretical debates on multicultural citizenship and corresponding policy-developments in the 1990s, today’s multicultural policy approaches are perceived to be in crisis<sup>1</sup>.

As a response to this so-called “crisis of multiculturalism” several European governments have reversed multicultural policies and revalued national citizenship. Traditional models and policies of immigrant integration and the accommodation of cultural diversity are being questioned and several governments of “old” immigration host countries, like the United Kingdom, Denmark, the Netherlands, France and Germany, have adopted assimilation approaches to counteract what they perceive as a failure of their former integration policies<sup>2</sup>. In addition to this policy shift, the perceived failure to integrate second- and third-generation immigrants has also launched a trend toward the re-evaluation of citizenship in European states (C. Joppke and E. Morawska, 2003; 16). Indeed, public debates have taken place about

what it means to become French, German, British or Dutch and a large number of European countries have carried out citizenship or nationality reforms in recent history. While the de-nationalization of citizenship has been the main trend since the early 90s, recently several old European host countries (like Denmark, the Netherlands, Germany, France and the United Kingdom) have put strong emphasis on the need to consolidate the citizenship/nationality link and even re-nationalize citizenship, by making it dependent on restrictive cultural requirements, like language and civic tests, and have introduced symbolic ceremonies.

The transformation of citizenship in the context of immigration-related diversity has been widely discussed in the Literature, but the character and direction of changes are highly contested. How can recent restrictions in citizenship policies be understood within the context of this theoretical debate? Do policy restrictions using citizenship rhetoric indicate a revival of exclusive modes of national citizenship and belonging, as postulated by R. Brubaker (1992), P. Weil (1991) M. M. Howard (2006), R. R. Koopmans *et al.* (2005), D. Jacobs and A. Rea (2007)? Or, do they reflect the reconfiguration of citizenship boundaries towards “post-national” (Y. Soysal; 1994; S. Sassen; 1996; 1998; 2003), “multicultural” (W. Kymlicka, 1995, B. Parekh, 2000; T. Modood, 2007) “de-ethnic” (C. Joppke and E. Morawska, 2003) “neo-national” (Feldblum, 1998) or European citizenship (K. Rostek and G. Davies, 2006; D. Kostakopoulou, 2001 and 2003)? This book aims to contribute to this theoretical debate on the future of citizenship policies in Europe by scrutinizing the recent restrictive policy changes.

3. For a historical overview of the citizenship concept, see R. Zapata-Barrero (chap. 1; 2001). There you will find the main academic references.

### **The European context: reconsidering the interaction between nationality, state, citizens and diversities (language, religion, nationality)**

Citizenship is a very old concept and has gone through different transformations since the times of the Athenian democracy and the Roman Republic. While the core meaning of citizenship over time has been the status of membership in a self-governing political community, and the rights and obligations that such a status entails, the boundaries of citizenship and content of rights and obligations have changed over time. The emergence of liberal democracies in the late-18<sup>th</sup> century was accompanied by the assumption of culturally homogeneous societies, also known as nation-states. National citizenship therefore originated along with the development of the modern nation-state, especially after the French Revolution.<sup>3</sup> Citizenship is the foundation of the nation-state (R. Bauböck, 1994; S. Castles and A. Davidson, 2000), and nationality the cement of citizenship (R. Zapata-Barrero, 2001). Nation-states are thus understood as imagined communities that provide citizens with identity, while legitimating sovereign control of the state (B. Anderson, 1982).

The European concept of citizenship has been rooted in national closure, both in the sense of limiting access from the outside and internal cultural homogenization from the inside. Immigration has rendered both types of closure problematic, as it has brought people who are perceived to be “different”, in ethnic, religious and linguistic and/or cultural terms. Increased worldwide migration is at the core of the age of diversity. We consider immigration not as a specific type of diversity, separate from other types of diversity (linguistic, religious, national), but rather as an example of multiple diversities (see also W. Kymlicka, 2009) or what S. Vertovec (2007) calls ‘super-diversity’, pointing out the need to consider



multi-dimensional conditions and processes affecting not only immigrants, as S. Vertovec highlights, but also debates surrounding other diversities, such as religious and national diversity, that are activated by the presence of immigrants (see case study of Spain as a laboratory of diversities, R. Zapata-Barrero, 2009).

4. This separation has become highly contested as well. The religious claims by Muslim communities living in liberal democracies for example illustrate that we cannot take the secularism of liberal democratic states for granted (V. Bader, 2008). See also A. Triandafyllidou, T. Modood, and R. Zapata-Barrero (2006)
5. In other words, cultures are not homogeneous, but multicultural themselves and human beings are neither determined by their culture, nor are they unaffected by it (B. Parekh, 2000: 158).
6. This is the social thesis of justice theories and the communitarian/liberal debate of the 1980s, but applied to culture. See P. Kelly, 2002)
7. For example, I. M. Young's theory remains largely bounded to the North American context, while W. Kymlicka and Ch. Taylor respond in a different way to the Canadian situation of multiculturalism (consisting of both migration and national diversity). Parekh and Modood, finally, write from the British experience of multiculturalism. On contextualism and multicultural debate, see T. Modood, A. Triandafyllidou and R. Zapata-Barrero, eds. 2006).

Policies that carry the name of multiculturalism are often associated with the idea that different cultural groups should preserve their cultures and interact peacefully with each other, thereby creating a mosaic kind of society where different cultural groups keep their distinct features (R. Zapata-Barrero, 2007; T. Modood, 2007). While the mosaic model represents the communitarian idea of a multicultural society, a liberal multicultural policy envisions a model of society where cultural diversity is respected at the individual level and is expressed in the private sphere, without giving minority cultural groups special rights in the public sphere. The classical liberal solution to cultural diversity therefore consists of private spaces (separated from public spaces) and majority rules, and is based on the idea that the state is culturally neutral and that people are free to act as they like in the private sphere. This idea is principally an extension of the idea of secularism to the cultural sphere.<sup>4</sup> However, unlike religion, culture (defined in terms of a "shared and inherited system of meaning") is not something you can choose, but rather something you are born and raised into (although this does not mean that cultural identity is uniform or lacks change over time due to personal choice).<sup>5</sup> Cultural diversity therefore cannot be restricted to the private sphere, as if it was a chosen identity or practice. Moreover, it is difficult to see how states can be culturally neutral, if we accept that human beings are embedded in culture and identity.<sup>6</sup> This critique has resulted in different ideas of how to manage the social realities of multiculturalism, other than assimilating them into the hegemonic culture of the nation, proposed by liberal, communitarian and democratic political theorists. While some identify political multiculturalism as an outgrowth of liberalism (like W. Kymlicka, 1995) or communitarianism (like Ch. Taylor 1992), others look for answers in the tradition of democracy (I. M. Young, 1990; 2000). Still, others argue for the need to transcend liberalism and redefine concepts like race, ethnicity and nationality (see, for example, B. Parekh, 2000 and T. Modood, 2007). It is important to note the context-bounded legitimacy of these theories of multiculturalism,<sup>7</sup> which makes us aware that there are no universal (but rather context-specific) answers to philosophical questions about conflicting political values (see also A. Triandafyllidou, T. Modood and R. Zapata-Barrero, 2006).

The social reality of multiculturalism in Europe is very different to that of traditional immigration countries (like the United States, Canada and Australia), because in Europe immigration has directly challenged pre-defined nations. This makes Europe a unique case for studying how states react to the challenges of immigration and diversity. After different multicultural policy-developments in the 1990s, today multiculturalism is perceived to be in crisis. With the crisis of multiculturalism in Europe, I refer not only to the perceived failure of these so-called multicultural policies, but also more broadly to the actual integration challenges experienced in Europe. The challenge of accommodating diverse peoples in a cohesive polity has been complicated by the growing salience of Muslim immigrants in Europe (T. Modood, A. Triandafyllidou and R. Zapata-Barrero, 2006), especially after highly-publicized terrorist acts carried out by Muslim extremists. Such incidences include the 11 September attack in 2001, the Madrid (March 2004) and London (July 2005) train bombings, and the assas-

sination of Theo van Gogh (November 2004), as well as the periods of unrest among immigrants, like during the uprising of immigrants in the French *banlieues* (November 2005) and later the Danish cartoon affair (September 2005). Whether the lack of integration of Muslims in Europe and Islamic terrorist threats are a fact or a perception, they have resulted in an increasing “anti-immigrant” sentiment in public opinion in general and specifically “Islamophobia”.<sup>8</sup> Muslim immigrants are increasingly pointed out in the media and political discourse as the immigrant group that is impossible to integrate into European society, due to a perceived clash of enlightened Christian values with traditional Islamic values.

This perceived crisis of multiculturalism and related fears of “ethnic enclaves” (in Britain), “communautarisme” (in France) and “parallel societies” (in Germany) have increased the importance of immigrant integration on the political agenda. This is reflected by the efforts of several countries to reposition themselves on the issue throughout Europe. In recent years, nine European countries<sup>9</sup> have introduced civic integration courses, citizenship tests and or citizenship trajectories as instruments in their integration policies (D. Jacobs and A. Rea, 2007; P. Mouritsen, 2008). While in some countries participation in integration programmes has been linked to social benefits, other countries have also made the successful participation a prerequisite for residence permits and citizenship. What are the main arguments framing the literature informing this policy debate?

### Current policy debate: De/Re-nationalization of citizenship arguments

How can the shift in citizenship policies be understood? There are at least 4 prominent arguments in the recent literature working within the framework of changes in citizenship policies in Europe. I plan to focus them in the framework of the two current policy processes: either a re-nationalization or a de-nationalization of citizenship, or the re-definition/consolidation of the sacred traditional link between citizenship and nationality. It is important to highlight that although I am presenting both processes in dual terms, they should be interpreted gradually.<sup>10</sup>

#### Argument 1: Transformation of citizenship after large-scale immigration

The first argument is based on the idea that changing citizenship policies in Europe can be understood in the context of a country’s migration history. Some authors have conceptualized this process as the transformation of citizenship schemes (R. Baübock and D. Çinar, 2001). Others argue that changes in the nationality laws of several European countries can be explained by the pressure to integrate a stable and permanent group of non-European immigrants and their children after a period of large-scale immigration (R. Hansen and P. Weil, 2001; 11). This explains not only the almost complete convergence trend in Europe on the rules determining the acquisition of citizenship at birth, but also the more limited convergence in the rules for naturalization in the 90s; de-nationalization processes in northern European countries and restriction (or absence of changes) in southern European countries. The de-nationalization of citizenship is less likely to occur when large-scale immigration is continuing and/or there is a large degree of irregular immigration, par-

8. See, for example, the last report on discrimination against Muslims (EU-Midis, European Union Agency for Fundamental Rights (FRA), May 2009 ([http://fra.europa.eu/fraWebsite/eu-midis/eumidis\\_muslims\\_en.htm](http://fra.europa.eu/fraWebsite/eu-midis/eumidis_muslims_en.htm) [June 2009])).
9. The Netherlands, Flanders (Belgium), Germany, Austria, Denmark, Finland, Sweden, France and the United Kingdom.
10. As L. Lomasky argues: “most policy goals are analogous rather than binary, that is, they are advanced to a greater or lesser extent rather than being on/off” (2001; 70).

11. For a discussion of the mechanisms that link public opinion to elite decision-making see G. Lahav (2004).
12. While populist right-wing parties have become alternatives in countries like France, the Netherlands and Austria, in other countries, like Spain and Germany, populist parties have remained absent for historical reasons. Nevertheless, as R. Zapata-Barrero (2004; 260) argues, conservative parties in Spain have adopted an immigration discourse similar to those populist parties.

ticularly in the context of uncertain economic conditions, as is the case in the current economic recession. Parallel with states' concern for controlling migratory flows through border controls, there has been a shift in attitudes towards recognizing long-term immigrants as part of society (R. Bauböck, 2006). This shift in attitudes has resulted not only in the recognition of the legal status and rights of permanent immigrants, but also in facilitating access to nationality. Also, A. Geddes and J. Niessen (2005) have pointed out that the inclusiveness of naturalization policies depends on whether states see immigration as a temporary solution to labour market gaps, or as a permanent phenomenon. New citizens are only asked to share the political culture of liberalism, which is reflected by the resurgence of *ius soli* and the liberalization of naturalization requirements, including the acceptance of dual nationality (C. Joppke and E. Morawska, 2003; 19-20).

### Argument 2: Negative public opinion

Emphasis is placed on the importance of not just the relation between diversity and citizenship policy responses, but also the much more complex relation between diversity and societal responses. In this framework several authors have highlighted the gap between official immigration policy and mass public opinion, with elites being more pro-immigration than their volatile publics. R. Hansen and P. Weil (2001; 13) argue, for instance, that migrant lobby activities should be understood as elite-led, as these groups are often created and included in the policy process by the state. As well as immigrant lobbies, domestic courts and the judicial system in general have often sided with immigrants, thereby pressuring political elites to adjust policies (V. Guiraudon, 2001, C. Joppke, 1998). Others have added that this elite-led liberalization has been possible because negative public opinion is not factored into elite decision-making (M. Freeman, 1995; R. Hansen, 2000). Finally, partisan politics are pointed out as an explanation for differences in the de-nationalization process of citizenship between countries, as left-of-centre governments are typically in favour of increasing the citizenship rights of immigrants, while right-of-centre governments want to resist such impulses (C. Joppke, 2003; R. Bauböck, 2006).

While domestic interest groups lobby for the de-nationalization of citizenship, M. M. Howard (2006; 450) points out that the mobilization of anti-immigrant public opinion can counteract the pressure of political elites and result in restrictions in citizenship laws.<sup>11</sup> Such a mobilization can take different forms, like the electoral success or agenda-setting influences of far right parties (see, for example, M. Schain, 2006), a popular movement, or a referendum on the issue of immigration and citizenship. The most obvious is the emergence of right wing populist parties that emphasize security and loss of national identity, using immigration as a threat in need of control. Also left-wing populist parties can use the discourse of a declining welfare state attributed to immigration. (R. Zapata-Barrero, 2009). V. Guiraudon (2003; 278) points out that populist parties are generally both anti-immigrant and anti-European Union and can therefore draw on both the domestic crisis of multiculturalism and the failure to establish a European immigration integration policy. Even reactions of mainstream conservative parties to the challenge of the far right's message can be as effective in blocking de-nationalization processes.<sup>12</sup> M. M. Howard (2006) defends this hypothesis by pointing towards Austria, Denmark and Italy, where right-wing parties played a leading role in restricting de-nationalization processes, and Ireland where

a restrictive referendum was successfully passed and Germany where a petition campaign rapidly stopped the momentum of de-nationalization. The exceptional case of Austria (restricting its citizenship acquisition in the 90s) has also been explained by the politicization of immigration in this country and the extreme right's place in the polity (R. Hansen and P. Weil, 2001; 17; R. Bauböck and D. Çinar, 2001; 255-268). To sum up, the political mobilization of a latent anti-immigrant public opinion in the face of the crisis of multiculturalism could be an explanation for the restrictive changes in citizenship policies.

### **Argument 3: Post-national discourse and European citizenship processes**

Another contingent of scholars has pointed to the exogenous constraints on national immigration policy by international human rights and market norms (Y. Soysal, 1994; D. Jacobson, 1996; S. Sassen, 1996, 1998; 2003). It is understood that international structures and discourses were responsible for setting the parameters of the political debate on citizenship in the 1990s, regardless of the presence of the public opinion or the extreme right (see, for example, C. Joppke, 1999). The most obvious effect of this post-national discourse has been the development of granting long-term foreign residents (without official citizenship status) the economic, legal, and social rights of citizens (including rights to welfare, rights to social services, unemployment benefits and medical insurance).<sup>13</sup> It is also argued that the introduction of *ius soli*, the facilitation of naturalization and the allowance of dual nationality are indicators of post-national membership, because they modify ties between national identity and citizenship and have increased multiple memberships (M. Feldblum, 1998; 236). In particular, the allowance of dual nationality has been considered a post-national development. The increase in mobility, the fact that children can acquire citizenship not only from their father but also from their mother, and the development of new norms and human rights standards are believed to have contributed to de-nationalization processes in terms of allowing dual citizenship.<sup>14</sup> Evidence for a strong effect of international institutions in the field of citizenship policy however is scarce (R. Bauböck, 2005; 5). The only international institution that seems to have effected changes in nationality laws is the Council of Europe (1997). Several scholars have addressed the issue of converging nationality laws in the EU after the Second World War in the context of European integration and the introduction of 'European citizenship' in 1992.

European citizenship is complementary to and subsidiary of national membership, as only nationals of member-states are European citizens. In this sense, C. Joppke (1998; 32) argues that, "European citizenship would become post-national if the non-citizen immigrants residing in the European Union were to get it too". Similarly, M. Feldblum (1998; 245) insists that European citizenship is a reformulation of nationalist ideas rather than an extension of them. The scholarly debate on the relevance of European citizenship for the transformation of national citizenship has therefore been mixed. While some have pointed out the irrelevant nature of European citizenship for citizenship reforms (for example R. Bauböck, 1997, U. Preuss et al., 2003, M. Martiniello, 2000; M. P. Vink, 2001) others have suggested that European citizenship has indeed transformed the concept of national citizenship (D. Kostakopoulou, 2001) and resulted in nationality reforms as a result of increased interdependency among Member States (K. Rostek and G. Davies, 2006).

13. Some scholars have argued that national citizenship has become redundant in liberal democratic countries because of the social, economic and political rights granted to foreign nationals (or the emergence of "denizenship"), as it has blurring the boundaries between foreigners and nationals (see, for example, T. Hammar (1990), Y. Soysal (1994), R. Bauböck (1994), D. Jacobson (1996), S. Sassen (2003). On the other hand others, like C. Joppke (1998; 27), argue that it is no coincidence that post-national membership rights are mainly available to immigrants in Western Europe, as it allows these states to leave exclusive cultural citizenship schemes intact.
14. The allowance of dual nationality has been subject to much political debate in several countries as a consequence of large-scale migration and the increase of mixed marriages. Historically, dual citizenship was discouraged by many countries because of the problem of multiple loyalties and related state security concerns. Other reasons are the possible impediment to immigrants' integration, potential conflicts over citizens' obligations (mainly military service and taxation) and inequality between citizens (R. Hansen and P. Weil, 2002: 7; M. M. Howard, 2005; 700-701).

15. Inspired by R. Brubaker (1992) several authors have started to talk about 'national models' of integration that are rooted in long-standing national cultural understandings and legal frameworks of national identity, citizenship, and church-state relations (see, for example, A. Favell, 1998 and R. Koopmans et al., 2005).

As the EU has no direct competences in the area of nationality of its Member States, the convergence argument suggests that the acquisition of citizenship in EU Member States has become more similar due to the normative pressure of co-members. This argument is believed to have led to the de-nationalization of states with former restrictive nationality legislation, and restrictions in liberal states. The reason for this convergence is because of the increased interdependency between EU Member States after the creation of *Schengen* borders and EU citizenship (K. Rostek and G. Davies, 2006). *Schengen* removed the EU's internal borders and guaranteed the free movement of member state nationals. As the same right has not been provided for resident third-country nationals, it made member-states more independent and urged the need for the development of common immigration and asylum policies. As naturalization makes immigrants not only nationals, but also EU citizens, countries like Germany and France have become concerned about becoming final destination countries when other countries provide easy access to national and EU citizenship. It is argued that the convergence of citizenship policies is taking place within this context of "burden sharing" (G. Lahav and V. Guiraudon, 2006; 207), so that reforms in citizenship policies result from the pressure exerted by co-members (K. Rostek and G. Davies, 2006).

#### **Argument 4: The return to assimilation and the consolidation of the citizenship-nationality paradigm**

The introduction of civic integration policies is an indicator of the common policy responses of old European host countries to the so-called "crisis of multiculturalism". The widespread belief in Europe that post World War II state policies were insufficient (if not harmful) has led to a change in integration philosophies. Some have characterized this as a shift towards the logic of assimilation (C. Joppke and E. Morawska, 2003; R. Brubaker, 2003; C. Joppke, 2007). R. Bauböck (2006; 5) has argued that this new approach does not necessarily mean a return to an exclusionary ethnic conception of citizenship, but rather indicates a shift in public integration philosophies in Europe. Citizenship is no longer attached to ethnic identity and descent, or accepted as an individual entitlement and a tool for integrating societies of heterogeneous origin. Instead, citizenship becomes a reward (granted discretionally by the state) for those who do not pose a threat to the wider society because they have integrated sufficiently (R. Bauböck, 2006. See also E. Jurado's contribution in this volume). According to R. Brubaker (2003; 42-43), the "return" to assimilation strategies should be understood in terms of the general intransitive meaning of assimilation, that is, by stressing similarities between populations of immigrant origin and host populations.

The shift towards assimilative civic integration has led some authors to claim that the German ethnic and French civic models of national citizenship have become false opposites, as both have adopted restrictive and exclusionary citizenship policies (see, for example, D. Kostakopoulou, 2003). Others have suggested that it is too early to claim a paradigm shift in integration policies (from multiculturalism to assimilation) and discard the idea of national models of citizenship<sup>15</sup>, by arguing that civic integration policies differ considerably between countries and are implemented for different reasons (see, for example, D. Jacobs and A. Rea, 2007). Indeed, communitarians and republicans might agree on the need for language and civic requirements for naturalization, but for different reasons. While the first aims at identification with shared cultural values in society (nationalism), the second aims at participation in the political community and civil society (for an overview see D. Jacobs and A. Rea, 2007).

## Overview of the chapters

With the aim of contributing to the ongoing European debate, the contributions made in this book share the common framework of considering citizenship as a policy approach for managing diversity, and make the first reflections on the first state reactions to the so called “multicultural crisis”. The book’s overall goal is to tackle both the institutional and the normative aspects of citizenship policies in European countries, and to deal with basic topics such as those that analyse ‘citizenship tests’, changes in naturalization policies, theoretical debates linking citizenship and nationality, citizenship and discrimination, as well as an analysis of the limitations of the concept of citizenship in the context of cultural diversity.

This book is a compilation of the main contributions made at the joint initiative seminar by GRITIM-UPF (Research Interdisciplinary Group on Immigration, [www.upf.edu/gritim](http://www.upf.edu/gritim)) at the Universitat Pompeu Fabra (Barcelona, Spain) and the Migrations Programme of the CIDOB Foundation ([www.cidob.org](http://www.cidob.org)) held on 16 June 2008 entitled, “Immigration and citizenship policies in the European Union”.<sup>16</sup> All the authors have revised and updated their original papers so that they fit into the main framework of the book. Each one highlights the paradoxes and dilemmas facing most European states, evidencing what we have labelled as “Europe at the crossroads”, which means the double process of de-/re-nationalisation of the institution of citizenship, traditionally linked to the state. Others establish relationships between citizenship policies, discrimination, civic tests, and naturalisation. Now, let me outline the main arguments defended in each chapter.

**Per Mouritsen** (*The Culture of Citizenship. A reflection on civic integration in Europe*) discusses what he terms as the new civicness or civic integrationist turn. His starting premise is that the anatomy of this shift is evident across North Western Europe in the proliferation of civic integration programmes and courses, citizenship tests, contracts, and ceremonies, civics education, and broader national discourses on the problems of multiculturalism and the normative terms of immigrant inclusion, including the terms of citizenship acquisition. P. Moritsen argues the normative ambivalence of this turn, which in some ways might be seen as testifying to the late vindication of *constitutional patriotism*. He then suggests that this ideal assumes less than benign connotations relative to cultural diversity and religion, and gets entangled in a series of *culturalizations* of ostensibly liberal and universal ideals of civic membership. These tendencies may be observed across Europe, but are perhaps particularly apparent in the example of a country that may be conjectured to serve as a laboratory for the rest of Europe. This country, which in a peculiar way is hyper-liberal, hyper-civic and deeply nationalist, is Denmark.

**Christian Joppke** (*The Inevitable Lightning of Citizenship*) states that the current evolution of citizenship poses a paradox. On the one hand, in a world of huge and growing disparities of wealth and security, the objective value of citizenship must further increase. On the other hand, for the lucky ones in possession of it or close to it, citizenship’s subjective value is likely to be lower. C. Joppke’s chapter scrutinizes this paradox. The decreasing subjective value highlights an inevitable lightening of citizenship, which persists despite states’ desperate attempts to upgrade the meaning of citizenship by ceremony, civic integration tests, and more exclusive rights. C. Joppke discusses some features of citizenship ‘light’, most notably instrumental-

16. I now take the opportunity to thank Jordi Vaquer, Director of the CIDOB Foundation, and Gemma Pinyol, coordinator of the Migrations Programme, for supporting the initiative of editing this book. I would also like to thank Núria Franco, PhD candidate in GRITIM-UPF and Pamela Urrutia, from the CIDOB Migrations Programme, for taking care of the whole edition process.

ism and a dissociation of citizenship from nationhood. Following on from Argument 3 (Post-national discourse and European citizenship processes) of the debate presented above, EU citizenship is taken as an exemplar of citizenship light in the sense that, built at the turn of the new millennium, it is a citizenship of our time, entirely free of the baggage of nationhood and nationalism that, however phantom-like, ensnares the citizenships of old. Indeed, the court-driven empowerment of European citizenship casts a long shadow over contemporary state campaigns to upgrade the worth of national citizenship.

**Jennifer Cheng's** (*Promoting 'National Values' in Citizenship Tests in Germany and Australia: a response to the current discourse on Muslims?*) comparative chapter argues that despite historically having very different migration policies and concepts of citizenship, German and Australian naturalisation laws have been converging in recent years. In Australia a citizenship test was introduced on 1 October 2007 and a nation-wide Citizenship Test came into effect just eleven months later, on 1 September 2008, in Germany. The two tests have many similarities in their scope and content. After giving an overview of the history of citizenship in the two countries, the first part of the chapter explores the changes in German and Australian citizenship legislation from 2005 to the present. Whereas a decade earlier German citizenship was based predominantly on *ius sanguinis*, Australian citizenship aimed to be inclusive to all immigrants and to serve as a unifying factor in a multicultural nation. The latest changes, which were partly triggered by the London terrorist bombings in 2005, have brought the citizenship laws of the two countries closer together. In both countries, a national citizenship test has appeared as a result of discussions about the country's 'national values' and they have become stricter on anyone who might oppose them. These arguments appear to single out Muslims as the only minority group that may oppose such values. The second part analyses the citizenship tests in Germany and Australia, exploring how and if they represent a response to current concerns about Muslim immigrants. Some of the items on "national values" and the dominant "way of life" do seem designed to discourage "illiberal" Muslims from becoming citizens.

**Elena Jurado** (*Conceptualising citizenship: tool or reward for integration?*) offers a critical analysis of the observable tendency, in a number of European countries, to introduce stricter naturalisation requirements, including language tests and examinations on the history, constitution and so-called "public values" of those states. Focusing on the case of Britain, E. Jurado argues that, if what we want is to create an integrated society with an inclusive political culture, these policy changes are unlikely to work. The chapter advances a conceptual model for understanding the relationship between citizenship and integration, where citizenship is either conceived as a "tool" facilitating the integration of multi-ethnic societies, or as a "reward" to be handed to immigrants that have successfully "completed" the integration process. The example of Estonia, which has explicitly pursued the "reward" model, is used to highlight the dangers of this approach. E. Jurado suggests, instead, that the governments of multi-ethnic societies should opt for the "tool" approach to citizenship, which prioritises the role of equality and participation rather than language and identity in the integration process.

**Eduardo J. Ruiz Vieytez** (*Citizenship, democracy, and the State of identity: reinterpreting the relationship in new contexts of diversity*) states that the implementation of the idea of democracy today requires a new reading of the political concept of citizenship. This reconsideration must be

addressed from a double perspective. On the one hand, it must respond to the legal exclusion of non-national residents. On the other, it is necessary to incorporate minority cultural identities when regulating public space and the way in which basic rights are implemented.

What he describes as, “the dominant State of Identity” must give way to a new scenario, where all residents can enjoy their fundamental rights through their own identity, and not in spite of it. Inclusiveness and plurality are the two key instruments for enlarging the traditional legal meaning of citizenship. In sum, E. J. Ruiz Vieytez’s chapter tries to demonstrate how the historical elements of exclusion are deeply rooted in our political and legal cultures. However, a new reading of citizenship opens the door to a new legal framework in respect to basic human rights in an environment of diversity, without depending on substantial normative changes within the content of the legal system currently in force.

**Jacqueline S. Gehring** (*Hidden connections and anti-discrimination in Europe*) examines the link between the implementation of racial anti-discrimination law and policy in Europe and the institution of citizenship in European states by considering citizenship and racial policy-making in Austria, Belgium, France, and Germany in-depth. She argues that states that have a more ‘closed’ institution of citizenship (e.g., those that make it difficult to naturalize, do not have *ius soli* regimes, do not grant amnesty or regularization to illegal residents, etc.) do not implement racial anti-discrimination policy strongly and, in fact, often ignore the problems associated with everyday racial discrimination in their societies. Conversely, she finds that states with comparatively open institutions of citizenship implement racial anti-discrimination policies strongly and are committed to fighting everyday instances of racial discrimination. She then attempts to explain the hidden connections that may be at the source of this correlation between citizenship policy and racial policy-making by considering the process by which racial discrimination becomes a political issue or problem. J. Gehring concludes by suggesting that open citizenship laws can create the space for discussing incidents of racial discrimination as problems within the political community, and in this way create the groundwork for the strong implementation of racial anti-discrimination policy. However, she also notes that expansive citizenship does not, in any way, directly alleviate racial discrimination.

**Suzanne Mulcahy** (*The Europeanisation of Civic Integration Policies: Why Do Member States Continue To Go their Own Way*) argues that in Europe there is a certain consensus that the challenges associated with migration require joint solutions worked out at EU level. On the migration and border control side of the coin, Europeanisation has become increasingly visible. However, it is less clear how much immigrant integration policies are being Europeanised. With this approach in mind, the chapter seeks to clarify the extent and nature of Europeanisation in this policy domain. S. Mulcahy begins by outlining the emergence of integration norms at EU level, focusing in particular on the ‘in vogue’ norm of civic integration. We will see that this idea of civic integration, whereby ‘EU values’ are transmitted to newcomers in European societies has become salient in the EU discourse on integration. An empirical examination of Member States’ responses to this civic citizenship norm results in patterns of ‘differential adaptation with national colours’, and not the convergence that some might have expected. Finally, she asks why all Member States have not converged around this EU-level norm. And more fundamentally, what, if anything, Europe has got to do with integration policy changes in Member States. The chapter argues that while Europe has become a forum for policy exchange and



legitimation for elites, there are more important underlying factors at the domestic level, which cause civic integration to be adopted or rejected as a norm. Domestic political elites and their politicisation strategies are revealed to be the most determinant factors for explaining why the civic integration norm has been embraced or rejected by Member States. While sharing concerns about the extreme version of civic integration with other scholars the chapter concludes, on a cautiously optimistic note, that European convergence towards an oppressive version of civic integration is not a foregone conclusion. On the contrary, the differential reactions to the norm seen in other Member States show that there are alternatives to the Verdonk version of civic integration.

**Andrew Davis** (*Multi-nation building? Immigrant integration policies in the autonomous communities of Catalonia and Madrid*) highlights the limits of the use of the concept of national models by investigating citizenship and immigrant integration policies in Spain. He argues that Spain is a case of competing ideological and territorial models based on embedded historical and institutional logics. At the central government level, the two main parties have developed policies largely based on long-developed ideological understandings of social citizenship, while the autonomous communities of Catalonia and Madrid have employed public policy towards integration based on regionally distinct conceptualizations of citizenship and inclusion, which coincide largely with their respective levels of political and social integration with the centre. This comparative perspective on autonomous integration policies in Spain demonstrates that the differentiated construction of membership and citizenship in the two communities reflects relative levels of integration with the centre. While one approach seeks to incorporate migrants into an assimilationist Catalan national project, the other seeks to incorporate migrants via an intercultural approach which assigns Spanish-ness as an overarching umbrella identity, encompassing national origin via a historical conceptualization of the *patria chica*.

**Thomas Huddleston** (*Promoting citizenship: The choices for immigrants, advocates, and European cooperation*) assesses how national trends in promoting civic and national citizenship are reshaping legal choices for immigrant residents, policy priorities for advocates, and opportunities for European cooperation. Using the results of the 2007 *Migrant Integration Policy Index*, the first part of T. Huddleston's contribution presents the state of citizenship(s) in the EU Member states. Results indicate that facilitating long-term residence seems to have had little positive impact on naturalisation. Rather, some negative spillover effects are observed between the two. Countries are imposing many similar and related conditions onto long-term residence, the acquisition of which can become a requirement to be eligible to naturalise and can reduce many incentives to apply. The second part of the chapter clusters the 28 MIPEX countries into a "citizenship continuum" on the basis of whether nationals, long-term residents, and newcomers have the same rights as citizens in the different areas of life. How far certain states have chosen to follow both, one, or neither of the two trends helps to explain immigrants' options on what status to apply for and advocates' strategies around what policies to improve.

The author finally argues that citizenship is part of the core business of Justice and Home Affairs ministries, many civil society stakeholders, different levels of government, and European institutions, and then questions whether these actors should pursue greater European cooperation, in order to secure the legal standards that they need to promote civic and national citizenship in countries all along this continuum.

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## THE CULTURE OF CITIZENSHIP. A REFLECTION ON CIVIC INTEGRATION IN EUROPE

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The purpose of the following chapter<sup>1</sup> is to reflect on what elsewhere (Mouritsen 2008) I have termed the new civic integrationist, or simply 'civic turn'. The anatomy of this turn is evident throughout North Western Europe in the proliferation of civic integration programmes and courses, citizenship tests, contracts and ceremonies, civics education and broader national discourses on the problems of multiculturalism and the normative terms of immigrant inclusion, including the terms of citizenship acquisition (Jacobs & Rea 2007; Joppke 2008; Wright 2008). This chapter, quite brief though it is, is indeed a reflection. It offers no real empirical or comparative analysis of this turn.<sup>2</sup> Instead it highlights a few normative ambivalences of this turn, which in some ways – or so it has recently been argued (Müller 2007a; 2007b; Joppke 2008) – might be seen as testifying to the late vindication of *constitutional patriotism*. It suggests that this ideal, when presented and used within languages of integration, assumes less than benign connotations relative to cultural diversity and religion, and becomes entangled in a series of *culturalisations* of ostensibly liberal and universal ideals of civic membership. These tendencies may be observed throughout Europe but are perhaps particularly apparent in the example of a country which may be conjectured, in certain crucial respects, to serve as a laboratory for the rest of Europe. This country, which in a peculiar way is both hyper-liberal, hyper-civic and deeply nationalist, is Denmark (see also Mouritsen 2006).

Two aspects characterize a common development, visible in different degrees and having different timings and flavours, all over Western Europe. First, a progressive idiom of citizenship is employed to suggest that the integration, peaceful prosperity, and development of immigrant societies requires the strengthening of, or inculcation of a set of civic virtues, i.e. the habitual assumption of specific duties and the achieving of competences in a variety of social and political spheres (in exchange for enjoying substantial rights to welfare and material membership).

As is forcefully argued by Christian Joppke (2007a: 14-19), modern states, and particularly advanced welfare states, which compete in a global economy and need to generate revenue for large public sectors and redistribution, require flexible, culturally adaptable, economically independent, self-governing market-citizens. Not only must individuals be self-governing – in a Foucauldian sense – with respect to the market

1. The following in part reproduces material from an invited talk for the conference *Networking European Citizenship Education: Rethinking Citizenship Education in European Migration Societies*, Lisbon, 26-28 April 2007, organized by the German State's *Bundeszentrale für politische Bildung*. The oral style of the talk has been largely preserved, although the text has been significantly expanded and some footnotes added. Research underlying it has been facilitated within the EMILIE-project, directed by Dr Anna Triandafyllidou, and financed as part of the EU 6<sup>th</sup> Framework programme on Citizens and governance in a knowledge-based society.
2. To do so is the purpose of a small pilot project *CiviTurn*, which I am currently undertaking with some young colleagues, that compares civic integration policies and discourse in Denmark, Germany, Britain, and the Netherlands. The project is supported by the Sport Goods Foundation and the Faculty of Social Science at the University of Aarhus.



place and the welfare state, they are also “forced to become autonomous” (Joppke 2007b: 72) in societies which are increasingly for liberal people only (Joppke 2008: 542-43).

In fact they must be – at least in countries like Denmark, Sweden, Norway, Germany and the Netherlands – reflective, egalitarian, anti-authoritarian carriers of a comprehensive liberalism, which does not just govern their public dealings with fellow citizens, but also their private lives – inside families, between sexes and generations – and personal outlooks. Hence, we are *not* really in the new world of Rawlsian political liberalism (*contra* Joppke 2008: 534), where citizens are ‘merely’ required to bracket their constitutive, particularistic beliefs in the face of deep public disagreements over essential, including constitutional questions that must be regulated. We are, instead, in an older world of critical theory and liberal perfectionism, which – however biased its ideological forms, as compared to sophisticated theory – is about liberation from prejudice and (religious) authority in all aspects of life; and about the state being un-neutral about the inculcation of such a *deep* liberal habitus. It is not at all obvious (again *contra* Joppke, 2007a, 2007b, 2007c) how all of these requirements are related to the functionalism of economic globalization. The impetus to respect private diversity, including traditionalist religious behaviour (prayer, head scarf) is more pronounced these days within business and private industry, where, after all, what counts is skills, productivity, punctuality, service attitude etc. – not how an employee thinks or raises her children.

But newcomers are also increasingly required to be good, meaning active, virtuous, capable, *citizens* – and this, I think, is somewhat under-emphasized by Joppke’s diagnosis (*ibid.*) of neoliberal market logics and globalization. Although the normative vocabulary in this dimension of civicness allows still more room for national variation of historical and cultural trajectories, it is increasingly the case that modern states demand that immigrants, in order to become citizens, should also be active, engaged, loyal, identifying – and democratically *capable* (tolerant, deliberating etc.) – as opposed to passive, indifferent subjects.

The second aspect of civic integration is about, well, integration. The emphasis on market-liberal, comprehensive autonomy-liberal, and civic values, is tacked onto discourses of common values, cohesion, homogeneity and culture. I will return to this in a section below. Suffice to say here that concern with national culture is alive and kicking in appeals to a country’s shared civic, liberal or democratic values and traditions – i.e., to culturalized, historicised and identity-invested narratives of exactly those requirements, noted above, which meet newcomers as required civic knowledge that has to be mastered. However, citizens should not merely be liberal and civic. They should also be more ‘alike’, or at least share certain loci of communal-ity and identification, and participation in a common life.

The good news, here, is that old-style cultural assimilation – in terms of entry requirements for newcomers, which emphasize shared history or religion, or non-political acculturation in a sense of fitting oneself into a new heritage or cultural life-world – is increasingly relegated to a right-wing fringe, which caters for population segments that feel threatened by globalization. Cultural nationalism of the old sort certainly does survive, also in more political mainstream versions, i.e., as traditionalist concern with national heritages, cultural canons etc., which should be maintained, restored or privileged according to a liberal-communitarian right of the national first-born to dominate the public space and *colour-*

ing of public spending in a country (Walzer 1994) But not, by and large, in the form of specific cultural assimilation standards, which newcomers are required to meet/live up to.<sup>3</sup>

Even so, countries such as the United Kingdom, the Netherlands, Germany, Denmark and Norway each have varieties of a public debate which a) asks if we have become 'too diverse' (Goodhart 2004), and answers this question affirmatively, posing b) the need for shared values or a sense of national culture or identity, often in some version of a *Leitkultur*, and then insisting c) that much of the latter consists of liberal and civic values – which happen to be *ours*.

A conference, lavishly organized in Lisbon with many speakers invited by the German *Bundeszentrale für Politische Bildung*, reflects well the diagnosis so far presented. The purpose of the event was to gather experts and policy-makers from across Europe to look at how citizenship or civics education might be organized and given content, and was in fact given content in various countries, to combat the problems associated with cultural pluralism and to facilitate integration. The way the problem was framed in the actual conference blurb was significant (it was also significantly reflected in numerous talks, particularly by the German academics, but also by honorary invited *Leitkultur* spokesmen from France, the Netherlands and Britain): i.e. in the notion that "'multiculturalism' defined as intellectual discourse and a set of political concepts and policies emphasizing and encouraging difference over common political values, is in a state of crisis"; in the claim that European societies were "sleepwalking into segregation"; and in the view that this called for a "paradigm shift" towards emphasizing clear rights and duties – in a colour-blind didactic discourse of citizenship ("irrespective of their origin, their skin colour or religion"). Indeed, citizenship education should "facilitate the identification of immigrants in European societies with their respective country, its language, its culture and its laws".<sup>4</sup>

But is there anything wrong with such statements? Should not the future of Europe be a republican one? It is paradoxical that this neo-Durkheimian or neo-Rousseauian integrationist discourse only appears to be in crisis (or at least questioned) in one place, which is France. Much of the discourse provides an instrumentalist account of value homogeneity as a precondition of trust and solidarity (and between the latter and nice things such as welfare state redistribution, liberal democracy and economic development). Although the structure of this argument (cp. Miller 1995) is that liberal democracy requires independent cultural back-up homogeneity, it is not always clear (also not in terms of political theory) that what is missing and required is not just any cultural homogeneity, but simply homogeneity of liberalism – that is liberalism-as-culture (a comprehensive civic culture of liberal democratic virtues and dispositions) (Mouritsen 2008). The short circuit between homogeneity and liberal homogeneity, of course, works by virtue of an unstated assumption that 'our' values and virtues *are* liberal, that they are liberal in the only way possible (colour-blind etc.), and that 'we' all of us, already, *share* them.

### Cultural pluralism as the problem?

It is quite striking that the 'crisis of multiculturalism' is also very loudly proclaimed in countries (Denmark, Germany) which never experienced any of it at a policy level and never had strong groups advocating it, and who could for these reasons hardly blame it for any minority margin-

3. There are certainly exceptions. Whereas the new citizenship tests in Britain (apart from being rather easy) are about practical, constitutional-political, and present-day oriented knowledge, the Danish test includes particularistic historical knowledge. In 2007 the test, bearing the rather clear fingerprints of the national-oriented Danish People's Party, included questions about 18<sup>th</sup> and 19<sup>th</sup> century artists and writers, the name of the bishop who founded Copenhagen, the year of the Reformation in Denmark, and even more conspicuously, a question on the text inscribed by Harold Bluetooth on the Rune stone at Jelling in 965 (answer: that he introduced Christianity to Denmark).
4. <http://www.bpb.de/files/G13YVF.pdf>

alization which such countries may have experienced. Most influential political theories as well as Western state programmes of multiculturalism were not opposed to liberal rights and equality, although countries such as the United Kingdom and Canada may have taken a few more steps towards liberally controversial 'groupness' – e.g. in areas of traditional marriage and divorce arbitration and comprehensive special representation policies – than countries such as Australia, let alone egalitarian-modernist Sweden. Advocates of British multiculturalism stress its status as an integration philosophy which is conducive to national belonging (Modood 2007) and Swedish multiculturalism was always closely tied to a Social Democratic project, enhancing the equality of new and old Swedish *medborgara* (Lithmann 2008).

The '80s and early '90s may have been a period of self-congratulatory multiculturalism in the Netherlands and elsewhere, which delayed awakening to the conditions of mass influx of refugees and growing unemployment. But countries such as Denmark, Germany, and France, all of them 'old' immigration countries, were equally late in catching up on the need to integrate newcomers better.

Hence, apart from this shared negligence across Europe, it is not quite clear *which* specific elements of official or unofficial multiculturalism were positively harmful and conducive to 'sleepwalking into segregation', whatever else may be said of them: Affirmative action? Religious exemption rights? Minority schools? Funds for immigrant community organizations? Symbolic recognition of minorities in official speeches and public documents? No doubt examples exist of counterproductive policies undertaken in the name of multiculturalism. However, while the verdict is out, one may also ponder how the problem of 'living apart together' is not only about culture and multiculture, but also about insufficient participation in the material community of welfare states. This, in turn, I submit, reflects a lack of skills, social capital and networks, poor labour market participation, segregated housing, and political marginality.

While multiculturalism as official policy is in crisis or under heavy reconstruction in most quarters, it is now acknowledged as a descriptive fact in most places. In some countries, cultural homogeneity *per se* is much more openly cherished and seen as necessary than elsewhere. Conspicuous diversity is still widely seen, more or less automatically, as a bad thing in traditional mono-cultural and ethno-national places like Denmark or Norway (but not, incidentally, in mono-cultural Sweden, Hedetoft 2006), where comprehensive social, economic and status *equality* (informality, low power distance) is assumed to require and reinforce (and even translate conceptually into) *sameness* and an attendant culture of conformity and political consensus – as in Tocqueville's anticipation of a conflict between democratic equality and any form of distinction of opinion and manners.

Even so, *forced* acculturation, as in the bad old days, is no longer *comme il faut*. *Leitkultur* must be presented as universal in content, if not in its institutional embodiment, even if its historical genealogy is presented as exclusively European, even Christian (Germany), or specifically Lutheran (Denmark).

Yet, even though much political rhetoric is heard about individual freedom to be different, it is also the case that cultural, and particularly religious pluralism is often associated with illiberalism *per se*, almost by

default. This is the reverse side of a modernist moratorium on overt concern with heritage, history, language based high culture, and broader social conceptions of normativity or conduct: In as much as the mainstream culture is stipulated as, or simply assumed to be, liberal – or even to be defined exclusively by its liberality – *any* cultural distance, and *any* cultural separation (including geographical separation and socio-economic marginality) is presumed to be illiberal.

### Constitutional patriotism?

Do such developments vindicate earlier hopes placed in the development of constitutional patriotism as argued, in particular, by Jan-Werner Müller (2007a; 2007b)? Müller defines constitutional patriotism to “capture ... social strategies to civic integration and immigration that are oriented towards liberal-democratic norms, and their affirmation by citizens and aspiring citizens.” Thereby he distinguishes it from what he calls “a purely positivist notion according to which constitutional patriotism exists wherever members of a polity show themselves to be attached to persistent (but not necessarily constitutionally codified) political arrangements”, as well as from a broader, “normatively substantive ... form of attachment to norms, values and procedures that are contained (or at least suggested) in a liberal democratic constitution, and ... the larger constitutional culture surrounding it,” i.e. a more or less worked out (Habermasian) normative ideal (Müller 2007a: 379).

Müller leaves it as an open question agenda to what extent particular states are on the road to constitutional patriotism at the level of “the actual policy proposals and emerging state practices dealing with admission and integration”. In terms of citizenship acquisition policies, such things as the retreat from *ius sanguinis*, the growing acceptance of dual citizenship, the departure from preferential treatment of preferred ethnic immigrants, and the emphasis, within civic integration programmes, on ‘political’ knowledge and virtues, and on liberal constitutional values, Müller is clearly right.

The overall trend in Europe, also reflected in EU-policy (as well as supranational law), is towards a liberal convergence, ‘laundering’ or weeding out preferential and national communitarian elements of citizenship and integration legislation. Important exceptions remain, of course: Denmark, Norway and Austria stick to single citizenship; several countries continue to target special groups, either positively, as when immigrants of Spanish-speaking origin receive Spanish citizenship more easily than others; or negatively, as in the Danish 24-year rule (restricting the age whereby a foreign-born spouse can obtain residence – a policy manifestly targeted against arranged Muslim marriages policy; although, significantly, it also affects, unintendedly, say a Danish-American couple). More generally, the fact that citizenship legislation is getting more liberal and neutral certainly does not mean that immigration policy is becoming less tight and securitized, nor even that access to full citizenship is, all in all, easier for the individual immigrant.

In a similar vein, resorting to policies and discourses of anti-discrimination, anti-racism and equal treatment – again very much prompted by EU-legislation (the process of implementing the directives on racial equality (2000/43/EC) and on employment equality (2000/78/EC) respectively) is clearly a liberal trend. Even so, some commentators, including Joppke, understate the continuing difference between strong compliers –

'multicultural' states such as Britain, the Netherlands and Sweden – and feet-draggers, such as Germany and Denmark, where anti-discrimination, particularly in terms of talk of structural discrimination and strong measures of monitoring, and particularly in the case of Muslims, is easily seen as either an undue confession that these liberal and egalitarian states have a serious problem to begin with, or as taking a step down a slippery slope of special treatment.

Constitutional patriotism has of course become a contested term, although the contest is a friendly one (Mouritsen 2008). I would like to voice a few reservations as to whether Habermas' own normative and political vision is just around the corner. Commentators often overlook how, in Habermas' own ideas, constitutional patriotism was more than a solidarity of the European, liberal spirit (shared, universal values, embedded in constitutions), but also one embedded in the particular political cultures and national histories of given communities. Müller's account, with its Hegelian sensitivity to empirical-historical developments in European societies, is in this way closer to Habermas than some other more procedural understandings. But in appropriating the concept, Müller – who makes no secret of this – renders it an integrationist term. Citing Brubaker with approval, he claims that we are currently witnessing a shift in discourse as well as policy, whereby integration is not something done to 'them', but something accomplished in common through mutual deliberative agreement, usually under state auspices. Civic integration is thus not normatively opposed to the value of difference, but practically meant to prevent marginalization and 'ghettoization', and therefore contrasts, above all, with benign neglect (p. 378)

This way of presenting current developments strikes me as overly rosy, even though Müller grants that everything depends on "how it is done" (p. 385). It downplays (certainly compared to Joppke's Foucauldian analysis of the same developments) the repressive and interfering element of integration policies, assumes the prevalence of a self-critical acceptance of responsibility for past neglect and discrimination, and anticipates a sense of dialogical (deliberative) inclusion of newcomers as equally worthy citizens – none of which are evidently forthcoming.

First, the new 'constitutional patriotism' places more emphasis on 'patriotism' than 'constitutional' – the civicness required, in terms of identity and allegiance as well as citizenship virtues, disposition and duties, is demanding. It has a bit of fire in the belly. This is so, clearly, in terms of the policies and regulations it inspires. While constitutional patriotism was always more than the mere requirement, of newcomers, to comply with the laws of the land (cp. Bauböck 2002), and hence presumed a progressive liberal development of citizenship capacity, Habermas did not have in mind positive policies aimed to create citizens, including various administrative apparatuses with a coercive, or at least conditioning intent. But it is also evident in terms of constitutional patriotism as "aspirational self-descriptions of given societies that are being advanced by politicians, bureaucrats and intellectuals" (*ibid*): There is a difference between a sociological idea of increasingly modernised and rationalised societal processes of communication (Habermas) and a potentially patronizing public discourse of the need to educate newcomers.

The civicness required is a relatively deep and comprehensive culture of citizenship: Constitutional *principles* must be alive in our hearts, override particular inclinations, be stood up for, and passed on to new generations. To be a citizen is to actively *identify* with political institutions and

compatriots, in ways that transcend more parochial cultural affiliations, and also to act, and have the requisite competences to act with independence, maturity and critical spirit (Mouritsen 2008:4).

Secondly, while early constitutional patriotism was seen as 'loosening', and 'thinning' loyalties, making them more amenable to (multicultural) difference (Fossum 2008), the new civics serves to 'tighten' society; presenting cultural diversity and pluralism *per se* as a problem, associated with fragmented and divisive parallel societies. Again, although the values to be shared are ostensibly, if comprehensibly thickened, liberal and civic ones, they get tied to conceptualizations that we should be less diverse. This, of course reflects a shift of historical trajectories, problem diagnoses, and protagonists. Habermas was concerned with European integration and German *Vergangenheitsbewältigung* – self-critically coming to terms with the past – whereas today's issues concern the future of functioning welfare states, the challenges of immigration, and above all the perception by many that strongly-held religious belief, in particular Islam, is associated with democratic immaturity.

Thirdly, and related to the point above, the contemporary focus on national *Leitkultur* and 'our values', to which I will return below, as well as the notion that integration requires that cultural difference *per se* be diminished, and common culture be thickened, so that citizens *share more* (as opposed to strategies of tolerating and accommodating difference by reflectively appropriating and re-interpreting universalistic ideals in multicultural settings in light of new identities staking legitimacy claims in the public sphere) conspire against any element of self-critical dialogue and deliberation. It is of course an empirical matter to what extent discursive configurations and public patterns of debate facilitate an intercultural blending of life worlds in the present anti-Islamic climate across Europe. States which were, traditionally, pluralism-accommodating, with relatively politically empowered and publicly visible minority groups (Britain and Sweden more than Germany, France or Denmark), are probably still likely to fare better in this regard.

The trouble with the (re)introduction of constitutional patriotism under present conditions is not necessarily the 'thickening' of constitutional patriotism, let alone the laudable ambition to translate Habermasian high theory into consequential conceptions of normative immigrant insertion in European societies. What I am concerned with, as should be obvious by now, is the manner that the national discourses, which Müller and many others refer to as evidence that Europe is progressing towards a more liberal and constitutional patriotic future, actually function in these national societies. I am concerned particularly with its constitutive relationship to public conceptions of cultural difference, its interface with the continuing pervasiveness of national(ist) sentiment, and above all the particular manner that an identitarian civic-liberalism-as-national culture is politicised and essentialized against Islam, not just potentially excluding Muslims from citizenship, but also constituted by increasingly stereotypical terms of (liberal and civic) self and (un-liberal and un-civic) Other in this exclusion.

### **Civiness and liberalism as culture and nationalism**

One more difference between Müller's account of constitutional patriotism – including the contemporary political context which it enlists as evidence and support – and earlier versions should be stressed above all. Whereas Habermas' ideas in the '80s were formulated either against the

nation, or as criticisms of it, the new discourse is a political reinvention, or reframing (and in some national contexts a celebration) of the nation and of a national public culture as a state project. Civicness is contained in, and rendered expressive of, what is most valuable in a national culture, into which newcomers must be integrated, or rather assimilated – given the emphasis on state-sponsored inculcation, engineering, even heavy-handed monitoring of ‘habits of the heart’, through citizenship tests, declarations, ‘integration contracts’ and citizenship education.

As evident in *Leitkultur* debates not only in Germany, but also in Denmark, Norway and Britain, conservative and instrumentalist-national arguments about the need to explicate, maintain, and transmit to newcomers a series of core values, are contested across the political spectrum. There are right, left and centre versions of such arguments. Yet, even if some versions are explicitly universalistic, or European, or silent about Christian heritage, their very structure is often remarkably similar: that what we share are such phenomena as ‘values’ and ‘culture’; that these values and this culture are relatively given and bounded within ‘our’ nation; that knowing them and agreeing about them, as a collective, is a way to remain safe in who one is – which is a precondition for openness towards the outside or ability to cope with globalization; and that maintaining and cherishing them is a matter of survival or at least security of the nation as a project (even where the national project is about welfare states, functioning democracies, or efficient economies).

Christian Joppke has recently (Joppke 2008) provided a slightly new twist to his earlier writings on ‘repressive liberalism’. Whereas, previously, the latter was predominantly linked to structural forces inherent in economic globalization and welfare state modernization, he now emphasizes the point that liberalism may also be identity-infested. The integrative needs of contemporary societies are not met by cosmopolitan and liberal values alone, but require discourses of identity, narratives of historical particularity, i.e. what is distinct in the sense of “what does not happen twice in the world” (p. 535). However, as old-fashioned ethno-cultural nationalism has been rendered morally and politically obsolete and intellectually unconvincing, the only candidate for this necessary integration – given that, for different reasons and with a few exceptions, neither language, nor religion (pp. 539-40) meet the ticket – is a thickened liberalism, stated in the identitarian terms of values and culture. Even so, although Joppke concurs that some politicians seek to state this liberalism in terms of national values – it is not a species of nationalism, but rather “liberalism as identity” (p. 542).

I cannot do justice here to Joppke’s rich and thoughtful article. However, I have some disagreements with his continual dismissal of nationalism as an element in the development of the new integrationism, and with his general thesis of “a paradox of universalism,” which “perceives the need to make immigrants and ethnic minorities parts of this and not of any society, but ... cannot name and enforce any particulars that distinguish the ‘here’ from ‘there’” (p. 538).

The first point to note is that Joppke appears to rely on a traditional (German) idea of nationalism as a thickly communitarian idea of ethnic preferentialism and deep culture, carried by a natural people of shared blood and history. It is indeed significant that old-style nationalism is mainly found on the right-wing fringe, in a particular type of songs and in countries like Serbia. Yet few contemporary commentators on

nationalism in Europe will fail to notice that we are primarily talking about (new) versions of civic nationalism, i.e. re-emerged, defensive-reactive and integrationist ideologies, whereby old, stable nation-states in varying ways respond to – containing, using, worrying about – popular reactions to identitarian threats from the outside, e.g. globalization, EU, and above all influx and integration of immigrants and refugees (Hedetoft 1999). But although such nationalism is civic, it still serves to delineate a national ‘us’ from ‘them’; it represents the ‘us’ as morally or in other ways superior, and it is linked to narratives – more or less rationalized – of accomplishment, crises, hardships and precious ideals, which are particularly found in specific countries and circumstances, not in others.

The fact that the expression of such ideals, to the extent that they are uncontroversially and broadly liberal, may fail to separate France from Germany or Denmark is not terribly significant. National markers were rarely unique, although presented as such. Throughout 19<sup>th</sup>-century nationalism there were conspicuous similarities across borders, later noted by ethnographers, in both structure and content – be they customs, costumes, heroes, foods, languages, or saints. Nationalism often remains a logic of minor differences.

Nor does it even matter that they are no longer perceived as unique in between a series of European countries. The fact that Denmark, Sweden, and Germany recognize each other as co-members of an exclusive club of liberal democracies which share a set of broadly similar values, in no way prevents governments and citizens in these countries from, respectively, promoting and harbouring national pride in the particularity – be it historical or institutional – of that country’s performance as such a member. This is the case, whether or not such narrative and contextual particularity of a people’s liberty is normatively conceptualized as (‘constitutional’ or ‘civic’) patriotism (Mouritsen 2005; Laborde 1992), or liberal nationalism (Miller 1995). The key point here is that, under present circumstances, the problem of even minimal differentiation does not arise at all, as the nation’s defining Other is *not another nation-state*, but Islam and Muslims as potential residents and citizens.<sup>5</sup>

It may be useful here to refer to the Danish case, which Joppke also briefly discusses. Increasingly seen as the black sheep of Western Europe (ethno-cultural like Germany; but without the latter’s European reconstruction of dangerous Völkishness after WW2), it could be a strategic test case. In an investigation of Danish public debates on ‘common values’ in contexts of immigrant integration (Mouritsen 2006), old-fashioned cultural nationalism of songs and language, heroes and history was only found at the far-right end, in the Islamophobic Danish People’s Party – and even here co-existing with political markers (liberal values, gender equality, freedom of speech, the welfare state etc). Across the political spectrum the common values and citizenship practices newcomers should learn were liberal and civic and broadly universal. Even so, a series of *culturalisations* of these values and virtues was evident. They may be summarized as the cultural, chauvinist, historicist (or ethnicist), and sacralization syndromes.

First, liberal and civic values and practices were conceptualized as a *culture*, in the sense of presenting Danes as a homogeneous group which shared them, *all of us* and in the same way<sup>6</sup> but not by (certain) newcomers. The obvious point here is that the specific meaning of some ‘universal values’ – including Danish favourites such as equality, democ-

5. Rogers Smith stressed this point in recent conversation.
6. Although a second order discourse, particularly on the left, would challenge whether they were in fact shared by their right-wing opponents; or include values like tolerance and openness to exclude the far right from Danish political culture.



racy, freedom of speech and (yes), tolerance are often hotly contested between different ideological groups and segments; and also that it is an empirical question to what extent abstract values – even if publicly affirmed – are shared more operationally, in a behavioural and attitudinal sense. The very *difference* between empirical incidence of value dispositions in a country and the politicized selection and depiction of certain such (claimed) dispositions as markers of identity and entry-requirements for newcomers should be born in mind.

Secondly, such values, even where their universal character was realized (either in the sense of being morally true, the end point of civilization, or empirically prevalent across the West – as opposed to other places), could easily be presented as *particularly and superiorly* Danish, i.e. in the variety of senses in which a country may claim to be particularly good at practicing or institutionalizing them, or doing so in the absolutely right way, or assuming a duty as exceptional ‘keepers’ (or dispenser) of such values for all the world to measure themselves against.

Such superiority or chauvinism, however misplaced, might then, thirdly, become tied to a set of historical, more or less idealized, narratives, presenting them as particularly deeply rooted and dependent for their special national excellence on old or ancient *ways of life* (the Danish peasant and labour movement, even the Nordic Vikings, the slowly-evolving traditions of informal, face-to-face democracy, egalitarian anti-authoritarianism), where such rootedness of tradition (accurate or not) serves to exclude newcomers who have not been brought up, or have ancestors who were brought up – in this national way of life. This historicization – even ‘ethnicisation’ – of liberal values might even be tied to Christian religion. In Denmark, an increasingly influential argument has it that the Lutheran separation of the realms of faith and secular life, also for the majority of Danes who *no longer* believe or practice religion, constitutes a cultural-behavioural filter against fanaticism, keeping religion out of politics, and ensuring social tolerance.

Finally, liberal and civic values become nationalized in the sense of constituting a national civic religion. The feature I have in mind – related to the assumption of homogeneity of values as a give national culture – is that ‘values’, when referred to by politicians in slogans and one-liners, become self-contained kernels of signification, that are considered real like things. Although hardly ever explicated or discussed in public debates, they become references assumed to have an obvious and given meaning. And this meaning is particular and universal at the same time; particular by being a feature of ‘us’ – the people in this land; and universal by being the endpoint of a country’s progression towards liberal and democratic civilisation. Both aspects sacralise values, cut them into stone. “Freedom of speech is not up for negotiation” as the Danish prime minister put it in a New Year’s speech to the nation on 1 January, 2006 (Rasmussen 2006).

This sacraclisation of liberal and civic values is particularly harmful, because it prevents us from facing values in the real, behavioural, anthropological sense, of what ‘we’ really share, and may even only share around here (for better or worse), let alone beginning to criticize and open a national public culture to intercultural dialogue. It is a real paradox that a reifying public discourse about very abstract and general values stands in the way of explicating, or even comprehending, the real particularism, as it were, of various national universalisms, i.e. conceptions, applications, and references across different social spheres and institutional settings, of equality, autonomy, secularism or freedom of

speech, as they shape habits, expectations and conditions of legitimate discourse, say, about the place of Islam or various religious practices in public life. It is probably *not* the case that such value-infused national political culture – which is the place where everyday conflicts occur, and must be adjudicated – “are comparatively easy to elucidate”<sup>7</sup>

## Islam as the other of civiness

Why bother with pathologies of public debate in Denmark, one-time role model, now more like a black sheep of Western Europe? These fallacies – the culture fallacy and the chauvinism, ethnification and sacralisation fallacies – are probably not uniquely Danish, although their particular form may be. The exclusive style of Danish discourse on civic belonging is matched by a very tough and continually tightened policy of citizenship acquisition. It does owe a great deal to a political constellation where the government relies on the right-wing Danish People's Party for parliamentary support. Even so, Denmark may in certain respects represent the shape of things to come in some other European countries. Denmark is not a northern hotbed of racist xenophobia. On several measures of immigrant friendliness and principled tolerance it scores better than most European countries, and much popular worry about immigration is really about the difficulties of integrating immigrants as equally participating citizens of the welfare state. However, there is very widespread scepticism and pessimism of multicultural diversity, low acceptance of Muslim religion in the public space, and, even compared to other northern countries, hostility towards religion when taken more seriously than what the secular non-churchgoing Danes themselves term 'cultural Christianity' (Mouritsen 2006).

Moreover, in Denmark, an organic connection exists between this scepticism of strongly-held traditional religion and a national political culture, which is in important respects, if looked at from the point of view of political theory and literatures on constitutional patriotism, liberal citizenship education etc., extremely civic and which understands itself as such. It is characterized by a comprehensive liberalism favouring deeply individual autonomy, substantial equality all the way down through civil society to family and gender relations, and deliberative ideals of democracy (Lex, Lindekilde & Mouritsen 2007). To those who think that enhanced citizenship, and its concomitant ideologies and imagery, is the road to positive integration of culturally and religiously diverse societies, Denmark may serve as a warning. In the country where a number of conventionally stressed elements of strong citizenship have long been part of political culture and broadly shared conceptualizations of national identity, this very culture functions, and is reflected in discourse, in ways that are not terribly amenable to integration and recognition.

It is no doubt the case, as in fact noted by Joppke (2008: 541), that the clash between, on the one hand, liberal states – *a fortiori* modernist hyper-liberal and hyper-civic states like the Scandinavian countries and the Netherlands – and on the other the influx of immigrant populations with sizeable proportions of traditional believers *must* lead to conflict and, by default as it were, the exclusion of Muslims in Europe. One way to put this is that liberalism itself becomes an identity for modern liberal people. But the very violence of the symbolic boundary-construction also has a culturalised and national logic. And while Denmark – in perhaps an extreme way – partakes in a European tendency to present liberal and civic integration solutions in terms of unflexible cultural-national frames,

7. B. Parekh, 'The concept of national identity', *New Community*, 21: 260, cited in Laborde (2002: 611).

such frames in turn reproduce hierarchies of good and bad culture and religion, i.e., the need of immigrants to give up their underdeveloped, undemocratic, prison-like, religious-traditional culture in order to adopt our advanced, democratic, reflective, secular culture.

The other side of the securitization of Islam coin is a polarizing tendency to hypostasize, dramatize and absolutize specific national virtues and values out of all proportion, as in the case of 'freedom of speech' during and after the cartoon affair: A main rationale for Jyllands Posten's infamous cartoons, and for their supporters, remains the sincerely-held conviction that Muslims, in their own best interest, should learn or be forced to learn to take their religion less seriously and become more autonomous, reflective and anti-authoritarian. In short, like us. They should learn to be citizens. And many Danes, including leading politicians, believed that this can be facilitated by teaching Muslims to stand ridicule and offence of their religion and their prophet. Religious mockery was sometimes conceptualized as a Danish civic virtue (Meer & Mouritsen 2009).

To have communities based on citizenship rather than cultural traditions or the blood and sacred heroes of the nation is certainly a great and perhaps irreversible leap forward. Yet, there is more than a single way to be a good citizen. Indeed good citizenship must include – and be taught to include – self-criticism and criticism of citizenship itself – in particular the ways we speak about its elements tend to posit good citizenship as antithetic to Islam and devout religious feeling.

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## THE INEVITABLE LIGHTENING OF CITIZENSHIP

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**T**he current evolution of citizenship poses a paradox. On the one hand, in a world of huge and growing disparities of wealth and security, yet one that is more connected than ever by technology and ideas, the objective value of (the right kind of) citizenship must increase further. On the other hand, for the lucky ones in possession of it or close to it, citizenship's subjective value is likely to be low and lower. This paradox is exemplified by two strikingly opposite recent statements on the "worth" and trends of citizenship in the West, Ayelet Shachar's *The Birthright Lottery: Citizenship and Global Inequality* (2009) and Peter Spiro's *Beyond Citizenship: American Identity after Globalization* (2008). Shachar (2009) points to the startling fact that much of the world's riches and life-chances are divided up by the morally arbitrary fact of birth, considering that 97 percent of the world's population are citizens at birth (only three percent are naturalized and thus former immigrants). The near-half of the world's population that is born with the "wrong" citizenships, mostly in the poverty zones of Southeast Asia and Sub-Saharan Africa, has to survive on less than two dollars a day; children born in the poorest nations are five times more likely to die before the age of five. Is there any more need to underline the value of citizenship in the West? At the same time, contrary to the contractual underpinnings of the modern state and the achievement ideology of modern society, citizenship is acquired for most as a "form of inherited property" (Shachar and Hirschl 2007: 254). But whereas the morally corrupting and dysfunctional consequences of inheriting material wealth have been amply debated and subsequently curtailed by law (see, most recently, Beckert 2007), the transmission of political membership still proceeds much like the "fee tail" or "entail" regime for inheriting landed property in medieval England, in which property transfer is untaxed and infinite in duration, land much like citizenship being passed on "from one generation to another in perpetuity" (Shachar and Hirschl 2007: 270).

While most scholarship on citizenship has zeroed in on the "gate-keeping" function of citizenship, bickering about the lot of (always few and privileged) immigrants who are thereby included or excluded, the "wealth-preserving" aspect of hereditary citizenship for the vast remainder, our naturalized immigrants included, has faded from view—this is the "'black hole' of citizenship theory" (Shachar and Hirschl 2007: 274). Indeed, if inherited citizenship, this "striking exception to the modern trend away from ascribed statuses in all other areas" (Shachar 2009: 13), is to prevail, taxing it or requiring

*This paper scrutinizes the paradox of the increasing objective yet diminishing subjective value of citizenship in Western states. The decreasing subjective value points to an inevitable lightening of citizenship, which persists despite states' desperate attempts to upgrade the meaning of citizenship by ceremony and more exclusive rights. EU citizenship is discussed as an exemplar of citizenship 'light'.*

human services in terms of a “birthright citizenship levy” is the minimum that the lucky ones owe those who are born in the wrong places, without any wrongdoing on their part, and without much of a chance of joining the intrinsically small elite of immigrants. Never has the worth of citizenship and its morally uncomfortable consequences for the privileged half of humankind been more effectively expressed.

1. For the distinction between status, rights, and identity as key dimensions of citizenship as the latter meets the fact of immigration, see Joppke (2007).

Contrast this with Peter Spiro’s *Beyond Citizenship* (2008), which—he submits—should really have been called *The End of Citizenship* (p.7). As if nothing had happened in the past fifteen years, both in the real world and in the world of scholarship, it reiterates and applies to the case of the United States the “postnational membership” diagnosis that Yasemin Soysal (1994) had made for early-1990s Europe. Yet there is much going for it. With globalization, the “importance of space and territorial boundaries declines” (Spiro 2008: 4), and so does the importance of the one institution defined by space and territory: the state. In a world of multiple citizenships and strengthened alien rights, citizenship in that diminished institution, the state, must mean less than in the past. The “declining legal significance of the status”, in turn, reinforces the “waning intensity of bonds among members” (p.6). The fact that “overinclusive” *ius solis* citizenship in America has not stirred much debate demonstrates for Spiro the “declining importance of citizenship itself” (p.30). As he intriguingly suggests, there is a “feedback loop of diluted ties”: “The larger the group of happenstance citizens, the less likely the status will be consequential, which renders existing citizens more accepting of expansive admission criteria and the addition of nominal members, which in turn entrenches the lack of consequence” (p.31). The larger the radius of citizenship as status, the less it can mean in terms of rights and identity.<sup>1</sup> With respect to rights, citizenship is said to make “very little difference” (p.81). That is both old, resonating with America’s traditionally thin citizenship, and new, as even the mid-1990s onslaught on the welfare rights of immigrants could be redressed so that, again, there is “near equality for the purposes of state assistance” (ibid.). Conversely, apart from jury duty, there are no specific obligations of citizenship, because taxes and even military service are imposed or imposable on resident aliens too. With respect to identity, “America’s dilemma” is that “inclusion dilutes identity” (p.157). Predictably, and more questionably, buying into the hyphenated citizenship scenario of contemporary citizenship studies (see Isin and Turner 2002), Spiro sees “the center of community” shifting to “locations other than the state” (p.137), such as the gated communities and other private bodies that now “regulate our existence” (p.148). As the state is downgraded to one of many forms of association, “the significance of membership issues outside of the state will grow in proportion to the importance of nonstate communities” (p.151), and membership in all these is conceivable in terms of citizenship. So, in lieu of one citizenship, there are many citizenships for each one of us, without one that might trump the other memberships.

## Resolving the Paradox

But how can citizenship, for one scholar, be “back with a vengeance” (Shachar 2009:2), while the other claims the “irreversibility” of its decline (Spiro 2008: 162)? The answer is: it is a matter of perspective, and especially of factoring in or out host states’ immigration policies. Shachar’s perspective is that of the losers in the “birthright lottery”, which condemns the majority of humanity to poverty, starvation, and early death, and in factoring out immigration policy citizenship law is seen as making all the cuts. Spiro’s perspective is that of the legal immigrant elite that, having cleared the crucial hurdle of territorial access, may choose

between permanent residence and citizenship. The indisputable truth in Spiro's analysis is that the value of an immigrant visa by far surpasses that of formal citizenship. Contrary to the current citizenship rhetoric beloved to politicians of all stripes and countries (see Joppke 2008), "the real prize is legal residency, not citizenship. It's all about the green card, not the naturalization certificate" (Spiro 2008: 159). Contemporary campaigning for upgrading citizenship may make cosmetic changes to this reality; it cannot change it at heart. Conversely put, only the immigration policy watchdog has allowed citizenship to take on the lightened contours that it indisputably has throughout the West. Only because the vast majority of humankind is locked out from the purview of Western citizenship by these states' immigration policies (which by definition are vastly more exclusive than inclusive, even in their most generous variants), could citizenship become more porous at the fringes and could the distinction between citizen and legal resident alien become blurred.

If Spiro's provocative analysis of a citizenship "almost gone begging for customers" (2008: 91) did not contain an element of truth, contemporary campaigns for upgrading citizenship would be meaningless. These campaigns are desperate, and ultimately futile, rearguard actions against the inevitable lightening of citizenship in the West. The case of Britain, next to the US prime example of historically thin citizenship, is telling in this respect. The current Labour Government's strategy has been to "raise the visibility of national citizenship in response to growing anxieties about identity and migration in our more fluid societies" (Goodhart 2006:9). Apart from prescribing symbols and ceremony, there is a hard and legal element to this strategy, attaching more benefits to formal citizenship than legal resident status. Concretely, Goodhart advocates a "formal two-tier citizenship", with a "temporary British resident status with fewer rights and duties" and a "more formal, full citizenship" (ibid. p.44). Goodhart's thrust is to draw a thick line between citizenship and all other statuses, in lieu of drawing it between citizenship and legal permanent residence *and* all other statuses, as is the legal status quo in Western countries. This idea was picked up in 2008 by the Goldsmith Commission, which was set up to advise the British government on citizenship policy. As its final report bluntly states, "(p)ermanent residency blurs the distinction between citizens and non-citizens. We should expect people who are settled in the UK for the long-term to become citizens" (Goldsmith 2008:11). The British Labour government under Gordon Brown, perhaps wisely so, refused to follow the Goodhart/Goldsmith recommendation to abolish the permanent residence category, arguing that "it is (not) right to force people to become British citizens should they wish to remain here permanently" (Home Office 2008b:10). However, the British government still took significant steps toward redrawing the lines between residence and citizenship, first, in excluding temporary residents from all forms of social assistance, and, secondly, in tripling the (relatively) rights-deprived limbo period of so-called "probationary citizenship" for those whose aspiration is merely permanent residence and not the acquisition of citizenship (ibid. p.14).

One wonders: if citizenship in the comfort zone matters more than ever, why this nervous attempt, especially in Europe, to upgrade something the priceless worth of which is beyond doubt? The answer is that the new citizenship talk is to compensate for a significant opening for legal immigration in Europe, highly selective and skill-focused, but deeply unpopular nevertheless. As a result of this opening, the immigration policy watchdog is less available than in the past to permit drift at the citizenship front. Moreover, the function of citizenship talk is less to be found in its illocutionary purpose of integrating newcomers than in its perlocutionary effect of pacifying



2. For a critique of Goodhart and New Labour's strategy of "mollifying Middle England", see Pathak (2007:265).

ill-disposed natives. Witness that the transition to what the current British Labour government dubs "earned citizenship" is nervously in sync with public preferences, distilled as it is from an unprecedented three-month exercise of "consultation" and "listening meetings" with the public (Home Office 2008a, b). The intellectual blacksmith of New Labour's citizenship policy, David Goodhart, does not hide the fact that his proposals are "defensive measures designed to persuade an anxious public that populists do not in fact have the answers and that British citizenship...remains valued and protected by mainstream politics" (Goodhart 2006:55f).<sup>2</sup> It is no happenstance that the country that prides itself on having become Europe's immigration magnet is also the country with the most robust citizenship policy. Conversely, one might argue that the flower of post-nationalism blossomed most strongly in a context of intended zero-immigration, when the wholesome denial of territorial access took the drama out of the residence-versus-citizenship tango.

### Features of Citizenship 'Light'

Almost in passing, David Goodhart (2006) concedes a fundamental limit to upgrading or re-nationalizing citizenship in current times. "The modern nation-state," Goodhart (*ibid*, p.17) argues, "is based not on a universal liberalism but on a contractual idea of club membership." If this is the case, citizenship is vitiated by instrumentalism, giving the lie to his moralist rhetoric of "progressive nationalism". In this respect, one economist recently asked whether citizenship was turning into "voluntary club membership", analyzable in terms of the theory of club goods (Straubhaar 2003). Like clubs, states provide goods whose consumption is "non-rivaling" among its members yet from which non-members may still be "excluded". To the degree that, in a world of migration, more and more people choose their State, states become "instrumental associations" (*Zweckgemeinschaften*), like clubs. From this follows, incidentally, a robust admissions policy, according to which the "benefits" for existing members must always exceed the "cost" of accepting new members. Still, extant norms of nondiscrimination have to be respected, the two legitimate admissions criteria being a capacity to pay (*Zahlungsfähigkeit*) and a willingness to accept the club rules (*Rechtsbewusstsein*). This mirrors the current emphasis on economic self-sufficiency and civic proceduralism in states' naturalization laws.

However, Thomas Straubhaar (2003:87) sees one "decisive difference" between states and clubs: "the state can force its citizens to risk their lives for the protection of the community". This echoes Michael Walzer's (1983:41) observation that states are not like clubs because state membership is involuntary for most, while club membership is always and inherently voluntary. Identity, we know, is most strongly invested in the non-chosen aspects of human existence, and this is what states have nonchalantly poached on in the high noon of nationalism.

Only, which state in the West still asks its citizens to "unconditionally subordinate individual interest" to that of the collectivity (Straubhaar 2003: 86)? Even America, where nationalism is stronger than elsewhere in the West, does not ask her native sons to risk their lives on the battlefield—while a good number of poor non-citizen immigrants are doing so each day, in a professional army that provides them with a job and prospects for life. Some thirty years ago, Morris Janowitz noticed a "priority on rights versus obligation in the political process of Western political democracies" (1980:1), which exposes as empty rhetoric the ritual notion that citizenship rests on a "balance of obligations and rights". As alarm-

ist and fashion-pandering as much of the “decline of citizenship” talk is, an indisputable element of truth is its pointing to a new context of “post-heroic geopolitics”, which makes “the role of the patriotic citizen far less crucial to...the state” (Falk 2000:13). Most historical expansions of citizenship rights, especially social rights, from Britain’s Beveridge Plan that promised cradle-to-the-grave welfare benefits for everyone to the American GI Bill that sent an entire post-war generation to college and that was formative in the creation of an American middle-class, occurred in the aftermath of war, being compensation for citizens’ putting their lives at risk for the collectivity. To the degree that recruitment for battle and participation in war has disappeared as a general citizen obligation in the West, and to the degree that the professional soldier has replaced the citizen soldier, the historical engine of citizenship rights and of strong citizenship identities has irretrievably died, luckily so, one must add.<sup>3</sup>

Now that a globalizing economy integrates the West and that the woes of war have become relegated to the Rest, an instrumental attitude to citizenship cannot but grow and grow. If one revisits Rogers Brubaker’s classic “ideas and ideals” defining membership in the nation-state (Brubaker 1989:3-6), which were “largely vestigial” by the late 1980s, one must conclude that twenty years later they have become more vestigial still. Of his six “ideas and ideals”<sup>4</sup>, only the norm that membership should be “democratic” still unambiguously holds, as especially European states have made huge strides toward “providing some means for resident non-members to become members” (p.4). In the past few decades, there has been a thorough liberalization of access to citizenship in Europe, which could only partially be reversed by recent restrictions on naturalization (Joppke 2008b). By contrast, with some exceptions, Western states have largely given up on the idea that state-membership should be “unique” (Brubaker 1989:4). With the idea of “uniqueness” goes that of the “sacredness” of membership, which had echoed the religious origins of nationalism. There are fewer citizens than professional soldiers that still “die for (the state) if need be” (ibid, 4), and this is immediately (and realistically) profaned as “blood for oil”. With respect to the idea that membership should be “socially consequential”, the post-welfare state has moved toward shifting responsibility from the collectivity to the individual (a good overview is Gilbert 2002). As this is a trend that has affected citizens and immigrants alike, one can no longer say that the thinning social privileges of membership “define a status clearly and significantly distinguished from that of non-members” (ibid. 4). Finally, the front-line of contemporary state campaigns for upgrading citizenship is injecting new life into the notion that state-membership should be “based on nation-membership” (Brubaker 1989:4); that is, a “community of language, mores, or belief” (ibid.). But the collective self that is conveyed in these campaigns is thin and procedural rather than thick and cultural (see Joppke 2008a).

Instrumentality is even fed by states’ own formal immigration and citizenship rules, which provide access in return for (sizeable amounts of) cash. While the “investor visas” of Britain, America, and more recently Germany, are widely known, it is much less commonly known that some countries, including Austria, in curious departure from its usual hard-lining in this domain, have moved ahead in offering even citizenship for cash. For an investment estimated to exceed 2.5 million dollars, one can “buy” Austrian citizenship, without any prior residence, language or even interview requirement, the paperwork being done by a consultancy that offers to “liaise with the various government agencies and ministries, and then prepare and lodge your application” (in the Austrian case, for the hefty fee of \$300,000).<sup>5</sup> Such a passport buys its lucky owner visa-free access to 125 countries and territories in the world. Surely, the fact that such schemes usually operate in secret,

3. The relationship between military service and the evolution of citizenship has been in the centre of the work by Morris Janowitz, by now largely forgotten (e.g., Janowitz 1978:ch.6).
4. Brubaker’s (1989:3) six membership norms are: “egalitarian”, “sacred”, “national”, “democratic”, “unique”, and “socially consequential”.
5. “Pledge of allegiance”, *The Economist* (1 February 2007) (downloaded from [www.economist.com](http://www.economist.com)).

along with a denial that it is “just a matter of handing money over and getting citizenship”<sup>6</sup>, shows the operation of the norm that citizenship should *not* be instrumental.

6. An official at the Austrian Ministry of Economic Affairs, quoted in “Pledge of allegiance”, *The Economist* (op. cit.).

7. In Rainer Bauböck’s (2007:2395) definition, transnational citizenship refers to “a triangular relationship between individuals and two or more independent states in which these individuals are simultaneously assigned membership status and membership-based rights or obligations”.

However, what goes under the label of “transnational citizenship”<sup>7</sup> is infested to the core by instrumentalism. That is, after all, why states, from Australia to Mexico, have given in to it in terms of accepting dual nationality, which used to be anathema to most of them as recently as ten or fifteen years ago. Rainer Bauböck (2008) wishes to discipline transnational citizenship by means of a “stakeholder” principle. According to this concept, the exercise of full political rights in two or more polities would be limited to those who can prove a “genuine connection” with the respective societies. This would save the essence of citizenship as “equal membership in a self-government political community” (ibid, p.7). But politics, while certainly the single most problematic aspect of transnational citizenship, is definitely not the gist of it. Instead, economics and personal advancement are. This is why states, on the sending *and* receiving ends, have given in to it. With an eye on East Asia’s resourceful diasporas on the North American West Coast, Aihwa Ong (1999) has dubbed the new phenomenon “flexible citizenship”. It refers “to the strategies and effects of mobile managers, technocrats, and professionals seeking to both circumvent and benefit from different nation-state regimes by selecting different sites for investments, work, and family relocation”. It sports such colourful figures as “astronauts”, shuttling across borders on business, and “parachute kids”, who are “dropped off in another country by parents on the trans-Pacific business commute” (p.19). Flexible citizenship is an affront to the classic ideals of nation-state membership, but it is condoned and furthered by these very states as an “instrument of flexible accumulation”, allowing them “to compete more effectively in the global economy” (p.130).

## EU Citizenship as Citizenship ‘Light’

Instrumental attitudes toward citizenship are indicative of a dissociation of citizenship and nationhood. This key feature of citizenship ‘light’ is best illustrated by the new European Union citizenship, which is arguably the most innovative and fast-moving citizenship construct in the world today. If one wants to look into the future of citizenship, perhaps it is to be found here. EU citizenship is entirely built around the fact of immigration, or what in Europe is referred to as “free movement”. It is Roman to the core, providing rights of free movement within Europe, and giving short shrift to the Greek package of politics, democracy, and duties (for the distinction between “Roman” and “Greek” citizenship strands, see Pocock 1995). It is worth rehashing Euro-lawyer Joseph Weiler’s early diatribe against the “Saatchi and Saatchi European citizenship” (1998:335): “To conceptualize European citizenship around needs (even needs as important as employment) and rights is an end-of-the-millennium version of bread-and-circus politics”. But where in the West (apart from Israel, Weiler’s spiritual home) is there more to citizenship than rights and almost no duties, where is it marked by “belongingness and originality”, where does it provide a “shield against existential aloneness” (ibid. 338)? All these things citizenship may have been when tied up with nationhood. But it is no longer—at the level of European nation-states no less than at European Union level. If the national is “Eros” and the supranational is “civilization” (ibid. 347), this distinction rests on a romanticized vision of national citizenship, one of “civic responsibility and consequent political attachment” (ibid. 333), that may exist in the mind of the political theorist but not in the real world.

Certainly, Weiler's (1998) defence of a pluralistic Europe has a long pedigree. From the start, there were two competing visions of Europe, the statist vision of a United States of Europe, analogous to the United States of America, and a supranational vision of an "ever closer union among the peoples of Europe", as expressed in the preamble of the 1957 Treaty of Rome that set up the European Economic Community. Couching the European project in citizenship terms, as happened with the introduction of a EU citizenship in Article 8 of the 1992 Treaty on European Union (Maastricht Treaty), threatened to give victory to the statist unity vision of Europe, at the cost of its true supranational potential of a Europe of "multiple demoi", which—as Weiler formulates with an eye on the continent's dark 20<sup>th</sup> century history—"is about affirming the values of the liberal nation-state by policing the boundaries against abuse" (p.341). Only, what Weiler wishes to see at European level: "citizenship as a hallmark of differentity" (p.329) and a "decoupling (of) nationality from citizenship" (p.337), has long happened at nation-state level. Establishing such citizenship at European level can only accelerate a train that has already departed. In sum, there are no statist or nationalist dangers in dubbing Euro membership "citizenship", because citizenship as "Eros" is a chimera at State-level already.

But what *is* European Union citizenship? Originally introduced in 1992, what is now Article 17(1) of the EC Treaty stipulates: "Citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union. Citizenship of the Union shall complement and not replace national citizenship". The last sentence was inserted in the 1997 Amsterdam Treaty, as a defensive measure by Member States, when the European Commission had pushed for a residence-based Euro-citizenship that would include third-state nationals (Europe's "immigrants" proper) (Ferrera 2005:142f). But this "nay" has no legal meaning, because the peculiarity of the EU if compared with State citizenship is set in stone by the preceding sentence: EU citizenship is not grounded in an own EU nationality law, but is secondary to holding the citizenship of a member State. This is not unusual in the history of federal citizenships: before the 1868 14<sup>th</sup> amendment to the US Constitution, and before the 1913 Imperial Citizenship Law, the American and German citizenships, respectively, were both derived from sub-federal State memberships. By the same token, the derivative quality of EU citizenship is unlikely to be stable, also if one considers the "vital connecting function which nationality plays in Community law" (O'Leary 1993: 66) and the notorious tendency of the European Court of Justice to arrogate to itself the definition of such terms.

In this respect mirroring contemporary state citizenships, EU citizenship is essentially about rights—there is a token reference in Article 17(2) of the EC Treaty that EU citizens "shall be subject to the duties imposed (by this Treaty)", only no duties worth the name can be found in the entire text (not even the duty to pay taxes, which anyway could never be an exclusive citizen duty). Instead, suitably figuring ahead of political rights at local and European (notably, not national) levels that in reality no one cares about<sup>8</sup> (in Article 19), the primary Euro-citizen right is the fabled right of free movement, as stipulated in Article 18(1): "Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States, subject to the limitations and conditions laid down in this Treaty and by the measures adopted to give it effect."

As the right of free movement is one of the four classic Euro-freedoms<sup>9</sup> dating back to the EC's first hour as a "common market", Joseph Weiler (1996) originally had dismissed its elevation into *citizen* right as "a cynical exercise in public relations"—no new rights were added to the already existing rights.

8. See Adrian Favell's (2003:20) observation that "European citizenship (as providing political rights, CJ) is not a particularly salient issue to Eurostars" ("Eurostars" being EU nationals living and working in other Member States).
9. The four Euro freedoms are "free movement of goods, persons, services and capital" (EC Treaty, Article 3c).

There was ground for this, as the “limitations and conditions” proviso in Article 18(1) seemingly folded back “citizens” into “workers” or other economic agents, whose moves (and no one else’s!) were regulated by the EC Treaty. “Europe”, after all, is at heart a functional regime to coordinate the economies of Member States, peopled by “factors of production” (Weiler 1996), not a territorial state, peopled by citizens. Hence the original polemic against EU citizenship as merely a “market citizenship” (Everson 1995). Even a most recent, last-nail-in-the-coffin attack on the “poverty of postnationalism” reiterates the known line that EU citizen status is a “derivative status that creates no new rights” (Hansen 2009:6).

10. The best available summary is Craig and De Burca (2008:ch.23). See also Wind (2009).
11. European Court of Justice, Case C-184/99, *Rudy Grzelczyk v Centre public d'aide sociale d'Ottignies-Louvain-la-Neuve*, at par.31.
12. European Court of Justice, Case C-85/96, *Maria Martinez Sala v Freistaat Bayern*.
13. European Court of Justice, Case C-456/02, *Trojani v Centre public d'aide sociale de Bruxelles*.
14. Directive 2004/58/EC of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States, preamble at par.10.

This is no longer true. European citizenship is post-national citizenship in its most elaborate form, belatedly vindicating Yasemin Soysal’s earlier claim in this respect (1994:148). What the past critics of an underwhelming EU citizenship could not know, and what current critics overlook, is the activism by the European Court of Justice that has transformed EU citizenship from derivative status into a free-standing source of rights. Worthy of being labelled “post-national” if there ever was justification for the term, EU citizenship in its presently expansive form is entirely the product of court rules, with only the thinnest relationship to an identity that might warrant the extensive rights that now accrue to Euro-citizens.

In a string of bold and controversial decisions between 1998 and 2004,<sup>10</sup> the European Court of Justice (ECJ) established two fundamental novelties that Member States could not have fathomed when launching their window-dressing EU citizenship in 1992: first, that there is a right to free movement and residence inherent in EU citizenship, regardless of previous EU law that required a variant of economic activity; secondly, that there are, next to formal rights of free movement and residence, substantive social rights that accrue to EU citizens *qua* citizens, outside prior economic status categories. The battle cry accompanying this stunning rights expansion has been the ECJ diction, given out in its September 2001 landmark judgment on *Grzelczyk*, that “Union citizenship is destined to be the fundamental status of nationals of the Member States”.<sup>11</sup> This is either a misnomer or a glimpse into the future, as EU law even in its presently expansive form does not apply to purely internal situations of Member States but only to situations where a cross-border component is involved. However, as this limitation entails “reverse discrimination” against domestic citizens who, for instance, now perversely have lesser family unification rights under national law than border-hopping EU citizens may enjoy in the same country under European law, it is unlikely to be stable. Unless, of course, the ECJ shifts to a lower gear, but this has not been its usual way of operating.

If one reads the ECJ rules on EU citizenship from *Martinez Sala* (1998)<sup>12</sup>, which was the first to base equal access to a member-state social benefit on EU citizenship status, to *Trojani* (2004)<sup>13</sup>, which effectively allows EU citizens to bootstrap their right of residence by tapping the social assistance schemes of their host states, one can almost hear the cry of pain of Member States, “But we never meant it this way”. As one of the few Euro-lawyers sympathizing with the lot of Member States points out, the European Court of Justice has raided the worker versus non-worker distinction that secondary Community law, in terms of directives and regulations, continues to uphold (Hailbronner 2005). Indeed, among the “limitations” and “conditions” of longer-term cross-border movement and residence by *non-economic* actors is their possession of “sufficient resources” and of “sickness insurance”. This is to avoid benefit tourism and free movers becoming an “unreasonable burden” on the welfare systems of host states.<sup>14</sup> ECJ case law has blithely ignored, and thereby

effectively destroyed these restrictions. In *Trojani* (2004), the court peculiarly endorsed a bootstrapping strategy on the part of EU citizens that is not unlike the benefit tourism outlawed by secondary Community law. As the court argued in this case, of course, there was no right of residence for non-workers who lack “sufficient resources”. However, as long as a person was lawfully present in a host member state on some other basis (in this case, Belgian national law), she was still entitled to access non-contributory social assistance on the same conditions as nationals. And recourse to social assistance could “not automatically” lead to the revocation of a residence permit.<sup>15</sup> Held to observe the principle of “proportionality”, Member States must not equate “recourse to the social assistance system” with the “lack of sufficient resources” that may trigger expulsion. In other words, by having equal access to social assistance, a Euro-citizen can buy herself out of the “lack of sufficient resources” proviso, so that it is effectively void as an obstacle to benefit tourism. “This seems to be logical”, finds a Euro-lawyer (Verschueren 2007:326). The non-initiated are more inclined to call it twisted reasoning, beloved to lawyers, but it is the stuff out of which European citizenship is made.

The activism by the European Court of Justice has made EU citizenship “socially consequential” of sorts (Brubaker 1989a:4), but only to the diminishing degree that the national citizenships still exhibit this quality. In fact, such Europeanization must undermine “strong national rights of social and industrial citizenship”, without the compensatory rise of strong “supranational rights” in a Europe that remains socially vacuous (Streeck 1997; more generally Scharpf 1999). Because, in the absence of strong solidarities at European level, the enthusiasm of nation-states to provide tax-based social benefits from which the rest of Europe cannot be excluded, and that may even be consumable anywhere in Europe, must cool down. Accordingly, when European Union law threatened to make “exportable”, and thus usable by return migrants anywhere in Europe, a planned supplementary pension scheme (the so-called *Fink Modell*) that was meant to assist elderly people in coping with the high living costs in Germany, the German government instead abandoned the idea, which had been supported across the political spectrum (see Conant 2004:306).

The main conflict stake in the social expansion of EU citizenship was a new type of non-contributory “mixed benefits”, which straddles the boundary between social insurance and social assistance, and whose purpose is to “establish a safety net of last resort for the whole citizenry” (Ferrera 2005:131; see also van der Mei 2002:552f). Examples are a guaranteed minimum income for the elderly poor, the long-term unemployed, the disabled, and other vulnerable categories. The creation of such schemes, need-based, tax-paid and thus expression of a “‘welfare’ that typically bind the members of a national community—and them only” (Ferrera 2005:133), has been the gist of welfare state development during its Golden Age in the 1960s and 1970s. States meant them for their citizenry only. Article 4 of Regulation 1408 of 1971, which coordinated the social security schemes of Europe for its “migrant workers”, excluded from the ambit of the regulation “social assistance”, as which one might think the new welfare policies should be classified.<sup>16</sup> However, the regulation fails to provide a clear definition of either social assistance or social insurance. So it fell to the European Court of Justice to fill the gap, and the court defined the entire mixed benefit schemes emerging since the 1960s, to the consternation of Member States, as “social insurance” rather than “social assistance” and thus subject to inclusion in Regulation 1408.

15. ECJ decision on *Trojani*, at par. 45.

16. Council Regulation (EC) No 1408/71 of 14 June 1971, on the application of social security schemes to employed persons, to self-employed persons and to members of their families moving within the Community.

- 17. Judgment of the European Court of Justice of 22 June 1972, Case 1-72, *Rita Frilli v Belgian State*, at par. 14.
- 18. ECJ decision on *Grzelczyk* (op.it.), at par.13.
- 19. *Ibid.*, at par.21.
- 20. *Ibid.*, at par.22.
- 21. *Ibid.*, at par.31.
- 22. *Ibid.*, at par.44.

The landmark case is *Frilli* (1972), in which the ECJ defined a supplementary pension benefit, which Belgian law had reserved to Belgian nationals, as “social security”, and thus accessible to other Europeans too—the reason being that it “does not prescribe consideration of each individual case, which is a characteristic of assistance, and confers on recipients a legally-defined position giving them the right to a benefit”.<sup>17</sup> In sum, to the degree that the new “mixed type” benefits were not charity but a right, for which there was no discretion on the part of the granting state, they qualified as “social security” and all Europeans had to be included. In a next step, the ECJ ruled a similar pension supplement in France exportable, so that “French taxpayers were *de facto* subsidizing some poor elderly people in Italy’s Mezzogiorno” (Ferrera 2005:134). Making such benefit exportable renders the policy *ad absurdum*, because the purpose of mixed type policies is to guarantee a minimum subsistence level that is determined by the cost of living *in the host state*, which is likely to be higher than the living costs in the less developed states or regions into which the benefit is carried.

No wonder that European Member States responded to the ECJ’s creativity on the social rights front by way of “evasion, overrule, and pre-emption” (Conant 2004:317). Interestingly, as nationality-based restrictions of the mixed welfare measures became unsupportable under European law, the only defence left for Member States was “control over residence” (Ferrera 2005:135). This was accomplished in Council Regulation 1247/92 of 30 April 1992, which stipulated that “special non-contributory benefits”, as explicitly listed for each country in an annex to the 1971 social-security regulation, had to be granted only in the territory of residence, and only if strict legal residency requirements were fulfilled (on the complexities of establishing residence, see van der Mei 2002:564-566).

This is precisely where the European Court of Justice’s recent inventiveness on European Union citizenship kicked in, because now states were no longer protected from an all-European claimants’ onslaught on their welfare systems by limiting its possible range to (however expansively defined) “workers”. In *Grzelczyk*, the Belgian authority denying a “minimix” minimum subsistence allowance to a French student deemed itself protected by the fact he was not a “worker”, and thus subject to the “sufficient resource” proviso that could impossibly be circumvented by tapping the host state’s social coffers.<sup>18</sup> The Belgian and Danish Governments submitting opinions in this case reiterated the classic line that citizenship of the Union had “no autonomous content”<sup>19</sup>, apart from the rights deriving from the EC Treaty and secondary legislation, and the latter clearly upheld the worker v non-worker distinction. And the French Government warned that granting the minimix to a foreign student would “amount to establishing total equality between citizens of the Union established in a Member State and nationals of that State, which would be difficult to reconcile with rights attaching to nationality”.<sup>20</sup> This “total equality” is exactly what the ECJ’s *Grzelczyk* decision accomplished, in declaring that “Union citizenship is destined to be the fundamental status of nationals of the Member States, enabling those who find themselves in the same situation to enjoy the same treatment in law irrespective of their nationality.”<sup>21</sup>

As the ECJ haughtily decreed in *Grzelczyk*, Member States had to “(accept) a certain degree of financial solidarity between nationals of a host Member State and nationals of other Member States”, particularly if the difficulties of a Euro citizen were only, as in this case, “temporary”.<sup>22</sup> This astonishing stipulation glosses over the fact that there is a fundamental “tension” between freedom of movement and the “principle of

solidarity" (Giubboni 2007). In the demonstrable absence of a genuine Euro-solidarity on the part of governments and their citizens, the "financial solidarity" that is exacted on host states and their tax-paying citizens is not free-standing but parasitic upon the national solidarities that it relies upon but does nothing to refurbish.

If the logic of Europe is to move from a nationality- to a residence-based sense of community and citizenship, one would think that "immigrants" proper ("third-country nationals" in Euro-jargon) fare well in this. Contrary to the standard pronouncements in the activist world and by most academics, immigrants have indeed done very well in Europe. This is because it is inherently difficult to justify a distinction between two types of internal free movers, one with and another without a European passport (but with legal permanent residence). There is a stinging sense that both types of free mover should be treated equally. As common as this view is, it is a truly radical view, because it erases the citizen-immigrant distinction. While it may be fed by certain "post-national" developments at member state level (of the kind reported in Soysal's [1994] classic work), above all it shows the power of the de-nationalizing logic of European Union. Equality between both types of mover would be achieved if EU citizenship were redefined "as based on residence and not on nationality" (Besson and Utzinger 2007:581). While this does correspond to the logic of EU citizenship, it certainly is not at present politically realistic.

Even short of this ideal scenario, significant progress in binding immigrants into Europe has been made. Those immigrants covered by an association agreement between the EU and their origin country, due to the help of the European Court of Justice, enjoy "explicit European legal rights" that in many respects approximate, sometimes even perversely exceed those of member state nationals (Conant 2004:315). Incidentally, the number of non-EU immigrants protected by an EU association agreement (2.3 million Turks; 1 million Moroccans; 600,000 Algerians; and 250,000 Tunisians) almost matches the number of EU free movers, which stands at 4.9 million.<sup>23</sup> A second immigrant group that has achieved near-equality with EU citizens are the family members of EU citizens, which enjoy "quasi-citizenship rights" (Besson and Utzinger 2007: 13). And, considering that the 1971 Council Regulation on social security has been extended to third-country-nationals in 2003, one must conclude that "(i)n the employment and welfare areas... third country nationals now enjoy virtually the same rights and obligations as nationals" (Ferrera 2005: 144).

Of course, the one exception to non-EU immigrants' near-equality with EU citizens is free movement rights, which accrue to EU citizens unconditionally, but to third-country nationals only after five years of legal residence, and then with further strings attached. In this respect, the promise of the 1999 Tampere European Council, which was to grant third country nationals "rights and obligations comparable to those of EU citizens", has not been quite fulfilled.<sup>24</sup> After the effusive prospect of an EU citizenship based on residence had to be shelved, the emphasis by immigrant advocates indeed shifted toward "approximat(ing)" the legal status of immigrants to that of EU nationals.<sup>25</sup> The demarche of the European Commission and of the advocacy groups aligned with it became the creation of a "civic citizenship" for immigrants, attributed by virtue of residence rather than nationality.

Judged by the major fruit of the "civic citizenship" campaign, the 2003 Long-Term Residents Directive,<sup>26</sup> the rights of immigrants trail those of EU citizens in two respects. First, in line with state-level immigrant rights, the

23. Combined, Europe's two migrant populations that fall within the ambit of EU law are at ca. 9 million, which constitutes slightly under three percent of the total EU population (Conant 2004: 314f).
24. Tampere European Council, 15 and 16 October 1999, *Presidency Conclusions*, at par.18.
25. Tampere European Council (op.cit.), at par. 21.
26. Council Directive 2003/109/EC of 25 November 2003, *concerning the status of third-country nationals who are long-term residents*.



- 27. Article 3(2) of the Long-Term Residents Directive (op.cit.).
- 28. Article 5(2) of the Long-Term Residents Directive (op.cit.).
- 29. Of course, Article 0 of the Maastricht Treaty stipulates that any "European State" may file an application to join the EU, and not, say, Japan, so that geography and culture cannot be exorcized from the definition of "Europe".
- 30. For a gloomier view of the "return of nationalist integration policies across all of Europe", see Favell (2008).

EU-level immigrant rights are highly fragmented and stratified, with students, asylum-seekers, refugees, and temporary workers all excluded from the ambit of the Long-Term Residents Directive.<sup>27</sup> Secondly, even the status of the most privileged immigrant group, long-term legal labour migrants, remains subject to the logic of "market citizenship" (Everson 1995). Article 5 of the Long-Term Residents Directive requires "stable and regular resources" and "sickness insurance" as preconditions for long-term resident status. No such conditions are imposed on EU citizens for acquiring permanent resident status. As Mark Bell (2007: 329) astutely observed, "whilst Union citizenship is transiting away from the market citizenship model, this is being reconstructed in respect of third country nationals". A further obstacle not known to EU citizens is making third-country nationals "comply with integration conditions, in accordance with national law"<sup>28</sup>, which enshrines at EU level the civic integration policies toward immigrants now practiced in more and more countries of Europe.

The fact of persistent formal inequality between immigrants and citizens in the European Union is unsurprising—as long as there is an immigration policy at whatever level, national or European, it could not be otherwise. What *does* surprise is couching the campaign for immigrant rights in the language of citizenship, and this not by an activist fringe but by the official core of Europe. This shows that European citizenship is "conceptually decoupled from nationality and as a matter of fact from any form of European nationalism" (Besson and Utzinger 2007:576). Whatever there is in terms of a European identity, it is thin and procedural, epitomized by the so-called Copenhagen Criteria that exclude no state from membership as long as it is a market economy, democratic, and respectful of the rule of law, human rights, and the *acquis communautaire*.<sup>29</sup> As an imaginative lawyer foresees (Davies 2005: 53), in shifting the focus of rights and belonging from nationality to residence, "Europe does not just require the absorption of foreigners, but also the rejection of expatriates." This truly post-national moment has not yet been reached, and perhaps it never will. But there *is* the prospect of "(a) community...defined by its current members more than its history,... constantly reinventing itself and changing, belonging to those who participate, not those selected at birth" (ibid, 56). This is, indeed, a "model that looks rather American" (p.55). It is the prospect that European citizenship holds—blessing for cosmopolitans, but curse for whom citizenship should not be light but home (for an intriguing plea for citizenship as "home", see Sacks 2007).

European citizenship used to be ridiculed as a misnomer, but the more interesting optic is to see in it the future of the real thing. Built at the turn of the new millennium, it is a citizenship of our time, entirely free of the baggage of nationhood and nationalism that, however phantom-like, ensnares the citizenships of old. States deem themselves in control because access to European citizenship is still through holding a national citizenship. But this is deceptive. In reality, the court-driven empowerment of European citizenship casts a long shadow over contemporary state campaigns to upgrade the worth of national citizenship. If the British state, as discussed above, seeks to attach more rights to the status of citizenship and in parallel to lessen the attractions of the legal permanent residence alternative, this is entirely futile: European Union law commands the inclusion of all EU foreigners and of long-settled immigrants into any upgraded national citizen privileges. In fact, looking back from the European angle at current attempts to re-nationalize citizenship, the state campaigns are revealed as smoke and mirrors—"symbolic politics" if there ever was one. The future of citizenship is bound to be light, and lighter still with the help of "Europe".<sup>30</sup>

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# PROMOTING 'NATIONAL VALUES' IN CITIZENSHIP TESTS IN GERMANY AND AUSTRALIA. A RESPONSE TO THE CURRENT DISCOURSE ON MUSLIMS?

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## **Introduction**

This chapter looks at the major changes in the citizenship legislation of Australia and Germany since 2005 and the political discourse surrounding these changes. Despite the fact that Germany and Australia have long had very different migration policies and concepts of citizenship, their naturalisation laws appear to be converging. Whereas in 1999 the residence requirement for naturalisation in Germany was 10 to 15 years and in Australia two years, the requirements are now six to eight years and four years respectively in 2008. Furthermore, the introduction of a nation-wide citizenship test occurred less than one year apart – on 1 October 2007 in Australia and on 1 September 2008 in Germany. The changes in both countries appear to denote a movement towards creating a more exclusive citizenship, one that privileges the 'deserving' and 'desirable'. In addition, there has been a strong emphasis on promoting 'national values' through the process of taking citizenship. These trends appear to reflect the increasing concern about Muslims and about the compatibility of Islam with liberal democratic values.

## **Overview of pre-2005 Citizenship Legislation**

### **Australia**

Australian citizenship has undergone major changes since Australia federated in 1901. At that time, Australian citizenship did not exist and Australians were simply British subjects (Irving, 2004:9). Australian citizenship only came into force when the Commonwealth of Australia implemented its own Citizenship Act in 1949. However, it was not until 1973 that newly-arrived British citizens ceased to have the same rights as Australian citizens in Australia. In the post-World War II era, and especially after 1973, Australian citizenship served as a unifying factor in an increasingly culturally diverse country and the government actively sought ways to encourage migrants to become citizens. In 1984, a reduction in the residential requirements for citizenship, from three to two years, made it one of the most liberal citizenship policies in the world. Furthermore, until 1986, the concept of *ius soli* was practised in

its purest form, allowing all children born in Australia to acquire citizenship automatically<sup>1</sup>. After 1986, only children born to Australian citizens or permanent residents have acquired citizenship automatically.

1. The only exception being children born to diplomats.
2. Although they were regarded as temporary labour migrants, after the recruitment ban in 1973, most workers, fearing they could not return to Germany if they left, simply stayed in Germany and sent for their families under family reunification laws.

Another significant change to the Australian Citizenship legislation occurred in 2002. On 4 April 2002, an amendment to the 1948 Citizenship Act also allowed dual citizenship for Australian citizens who acquire the citizenship of another country. Prior to this, emigrants who acquired the citizenship of a country automatically lost their Australian citizenship due to the 1949 law that barred dual citizenship in Australia. However, since 1986, in recognition of the multicultural nature of Australia, immigrants were able to retain their original nationality after becoming Australian citizens and thus hold dual citizenship (Millbank, 2000). Therefore, until 2002, the law was in fact tilted in favour of immigrants while penalising emigrants. After the passing of this legislation, Australian citizenship was at its most inclusive for both emigrants and immigrants, with a very low residential requirement and no restrictions on dual citizenship. However, the emphasis on inclusiveness and the concept of Australian citizenship as an instrument in the integration of migrants would change after the terrorist bombings in London in July 2005.

## Germany

Until 1999, Germany's laws on nationality extended back to the Reich Citizenship Law (*Reichs- und Staatsangehörigkeitsgesetz*) of 1913. This was based solely on the principles of *ius sanguinis* with no provisions for *ius soli*. The origins of this law can be attributed to Germany's ethno-cultural tradition. Since Germany was formed from a patchwork of different territories, 'blood', rather than place of birth, was used to define who was German (Bade, 2001:32). Furthermore, as Germany was a primarily a land of emigration at that time, the 1913 law aimed to prolong the citizenship of German emigrants and simultaneously limit the acquisition of German citizenship by foreigners to exceptional cases (Brubaker, 1992).

After the end of the Cold War, the strong bias of Germany's *ius sanguinis* citizenship law in favour of emigrants became blatantly clear. Inhabitants of the former Soviet Union or other Eastern European states were able to 'return' to Germany if they could prove that they had a German ancestor. Called *Spätaussiedler* in German, these ethnic Germans were granted German citizenship right away and were allowed to retain their previous citizenship to hold dual citizenship. In contrast, the guest workers<sup>2</sup> who had come to Germany from southern Europe during the late 1950s to early 1970s could only apply for citizenship after 15 years of residence and the fulfilment of other criteria; for example, having German language skills. There was no *ius soli* provision for their children who were born in Germany. Furthermore, dual citizenship for this category of naturalised citizens was prohibited.

In 1998, the newly elected centre-left coalition drafted legislation to change the 1913 Citizenship Act. The legislation was passed with amendments in 1999 and came into effect on 1 January 2000. The new Nationality Act 2000 included a *ius soli* element that entitles children born in Germany to German citizenship if they have at least one parent with permanent resident status who has also resided in Germany for at least eight years. However, before the conservative opposition in the upper house of parliament passed the legislation, amendments had to be made to the dual citizenship bill. The compromise reached was that those children eligible for *ius soli* citizenship will have to choose, between the ages of 18 and 23, either their German citizenship or other

citizenship. If they do not choose either by their 23<sup>rd</sup> birthday, they would automatically forfeit their German citizenship. These massive changes to Germany's traditionally blood-based citizenship legislation were a major step in recognising Germany's migrant population, especially those from non-European Union (EU) countries who have no voting rights in Germany. After these changes, there were some minor amendments to the Nationality Act in 2005 to align it with the guidelines from the Immigration Act of 2005 (Tarneden, 2005), but it was not until 2006 that controversy regarding the introduction of citizenship testing began.

## The End of Inclusiveness and the Rise of National Values

### Australia

The movement away from an inclusive citizenship law in Australia started in 2005 as a result of the terrorist bombings in London on 7 July 2005. On 8 September 2005, the Prime Minister, John Howard, issued a press release in which he proposed stricter terrorism laws. Along with 11 new security measures, such as the ability to detain terror suspects without charge, Howard proposed an increase in the waiting period for citizenship from two to three years. This, he argued, would give the authorities more time to conduct security checks on applicants. Later, the Minister for Citizenship and Multicultural Affairs, John Cobb, stated in a parliamentary debate on 9 November 2005, 'I am confident that these bills achieve an appropriate balance between the inclusiveness of our citizenship legislation and the challenges of the world in which we live...a world where some seek to destroy our way of life and our values'. It is clear from Cobb's speech that the new legislation was not purely about a threat to security, but rather also a threat to 'our way of life' and 'values'. Cobb further stated that the increase in the residential qualifying period will also 'allow more time for new arrivals to become familiar with the *Australian way of life* and the *values* to which they will need to commit as citizens' (emphasis added). A measure that actually hampers migrants' attempts to acquire Australian citizenship is portrayed as beneficial to them. His rhetoric appears to be an appeal to right-wing conservatives, who perceive immigrants' failure to assimilate as a threat to Australia's cultural integrity (Mughan and Paxton, 2006:344). The increased waiting period was certainly not about acting in the best interests of migrants as Cobb states.

However, even three years was not considered adequate for migrants to understand what acquiring Australian citizenship entails. The bill for a three-year residential requirement was delayed in parliament, and in November 2006 the government added amendments, increasing the three-year waiting period to four years (Van Vliet, 2006). At least two members of the Labour opposition party, Ellis (2006) and Burke (2006), commented that the Government never gave a reason for the delay nor for the increase from three to four years. Andrew Robb, Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs, stated that people need at least four years to understand what they are pledging to when making the citizenship pledge<sup>3</sup> (Sunday, 2006) but does not explain why precisely *four* years are necessary. A new Citizenship Act, which included the four-year waiting period, passed through parliament on 1 March 2007 and came into effect on 1 July 2007. The Act also encompassed other amendments that would allow former Australian citizens to regain citizenship. Those who lost their Australian citizenship automatically through the pre-2002 ban on dual citizenship would

3. All those who become naturalised Australian citizens must recite the pledge of commitment at a citizenship ceremony. The pledge reads as follows: 'From this time forward [under God] I pledge my loyalty to Australia and its people, whose democratic beliefs I share, whose rights and liberties I respect and whose laws I will uphold and obey.'



be able to apply to regain it, meaning that their children are now also entitled to Australian citizenship. Thus the Citizenship Act 2007 renders it more difficult to gain citizenship by naturalisation while at the same time allows 'people to access their Australian heritage' by resumption of citizenship (Cobb, 2005). Even though it is not literally an issue of 'blood' as in the German case, Betts and Birrell (2007) argue that Howard equates taking out citizenship to entering an 'exclusive Australian community' which he likens to a 'family'. The new law therefore welcomes back former members of the 'Australian family' and their offspring while simultaneously keeping 'outsiders' at bay for a waiting period twice as long as in the past.

The four-year waiting period was, however, still not considered adequate to protect the 'Australian family' from undesirable outsiders. Two months prior to the four-year period being proposed, Robb released a discussion paper on a potential citizenship test entitled *Australian Citizenship: Much More Than a Ceremony*. The title reflects his argument that 'if we give [Australian citizenship] away like confetti, it's not valued' (Sunday, 2006). This implies that firstly, Australian citizenship has been given away too easily in the past, and secondly, that there are undeserving citizens who do not value their Australian citizenship. The paper discussed the merits of introducing a formal citizenship test with stricter English language requirements and a component on 'Australian values'. These values include: parliamentary democracy, freedom of religion, equality of men and women, and 'a spirit of egalitarianism that embraces mutual respect, fair play and a compassion for those in need.' (Robb, 2006). Despite the controversy surrounding the test, it appeared to have strong public support. A survey conducted in September 2006 found that out of 1200 respondents, 77 percent were in favour of a formal citizenship test that could include 'an English language test and questions about Australia and our way of life', while 19 percent were against the test and 4 percent were uncommitted (Newspoll, 2006). The Citizenship Testing Bill was passed by the Senate on 11 September 2007, and came into effect on 1 October 2007. The final version of the test did not include an English language component, as the English language within the citizenship test was considered sufficient to test applicants' English ability. Thus, the test that was implemented became purely a test on information about Australia and the Australian way of life. Potential citizens would have to prove their commitment to Australia by learning these facts.

Robb declared at the time of releasing the paper that, 'Citizenship is a privilege, not a right.' This is incongruous with the fact that all Australian citizens can pass on Australian citizenship to their offspring via *ius sanguinis* and the fact that these offspring need not take the test or even ever set foot in Australia. Thus a two-tiered citizenship begins to emerge – one for whom it is a right, and one for whom it is a privilege. The latter group must prove that they have 'integrated' into Australian society before being eligible for this privilege. Presumably descendants of (former) Australian citizens do not pose a threat to 'Australian values' because, as Miles and Brown (2003:167) argue, exclusion from the nation is 'premised on an expectation that a member of the nation will have a "tradition" of association with and commitment to the nation that has been handed down from generation to generation.' In this way, knowledge about the 'Australian way of life' that features in the citizenship test is considered to be something that is inherited (those gaining citizenship through *ius sanguinis*) or something that must be learnt (those gaining citizenship through *ius soli*). The former group are certainly privileged in that their knowledge is never called into question.

The emphasis on 'Australian values' has certainly not been applied indiscriminately to all immigrants. Indeed in the post-September 11 climate, and especially after the London bombings, arguments about 'Australian values' given by Howard and his ministers have often emphasised that there are parts of the Muslim community in Australia who directly oppose these 'values'. In an interview for a book in 2005 Howard stated:

There is a fragment [of the Muslim community] which is utterly antagonistic to our kind of society...you can't find any equivalent in Italian, or Greek, or Lebanese<sup>4</sup>, or Chinese or Baltic immigration to Australia. There is no equivalent of raving on about jihad...' (Megalogenis, 2005).

We can see the inference that Muslims who are against 'our' values have terrorist tendencies by default. The logic behind the interconnectivity between Australian values, Muslims and citizenship appears to be as follows: if Muslim extremists seek to destroy our values by promoting their own, we must assert that our values are non-negotiable. Since the acquisition of citizenship serves as a gate-keeping function, it should be used to ward off immigrants who do not fully support our values and to prevent such people from becoming Australian citizens.

These sentiments were also shared by Howard's ministers. In August 2005 the then Federal Education Minister Brendan Nelson was to meet with the Australian Federation of Islamic Councils to develop ways to teach 'Australian values' to children at Islamic schools. He argued:

We want them to understand our history and our culture, the extent to which we believe in mateship and giving another person a fair go...if people don't want to support and accept and adopt and teach Australian values then, they should clear off. (ABC News, 2005).

Nelson implies that Muslims are foreigners who are not a part of 'our history and our culture', and makes the assumption that Muslims will automatically be against the teaching of 'Australian values'. Quite ironically he argues that those who do not want to support giving another person a 'fair go' should simply leave the country. As Hage (1998) argues, 'the tolerated others' never exist on their own, because they must be *allowed* to exist. In this case, Nelson's rhetoric suggests that the teaching and upholding of Australian values be a prerequisite that Muslims must meet to be allowed to stay in the country. Citizenship does not quite fulfil its gatekeeper role in this case, since the people he is addressing presumably already have Australian citizenship. Yet Nelson uses the same values criteria to determine which Muslims should voluntarily 'clear off'.

Peter Costello, the federal treasurer, also argued that the adoption of Australian values should determine Muslims' right to stay in the country. He argued, 'Our laws are made by the Australian Parliament. If those are not your values, if you want a country which has Sharia law or a theocratic state, then Australia is not for you.' (Lateline, 2005). Later in February 2006 when the issue of citizenship became more prominent, Costello directly tied this together with citizenship by declaring in a speech:

The citizenship pledge should be a big flashing warning sign to those who want to live under Sharia law. A person who does not acknowledge the supremacy of civil law laid down by democratic processes cannot truthfully take the pledge of allegiance. As such they do not meet the pre-condition for citizenship. (Australian Government Treasury).

4. It is not clear what Howard meant by this. The Australian Bureau of Statistics found from the 2006 national census that 40.5 percent of Lebanese-born migrants in Australia were Muslims. It also seems that he mistakenly equates 'Muslim' to a nationality.

5. Costello has repeatedly referred to Abu Bakar Benbrika's interview on the ABC's *7.30 Report* where Benbrika states 'There are two laws, an Australian law and an Islamic law'.
6. In German: *Gesinnungstest*

These statements are problematic for several reasons. Firstly, Costello seems to appeal to populist perceptions of Sharia law without real understanding of what it entails. In fact Muslims in Australia already practise aspects of Sharia law that do not contravene Australian civil laws, for example in the area of marriage and banking (Hussain, 2006). Secondly, the rhetoric Costello employs can circumvent any charges of discrimination or racism even though his comments could be seen as inflammatory. At face value it would be difficult to criticise the point of view that those living in Australia need to abide by Australian laws. Yet his speech is in response to the comments of *one* radical Muslim cleric<sup>5</sup>. He implies that all Muslims are at risk of not recognising civil law because one Muslim has made a controversial statement. Humphrey argues that the construction of Muslim immigrants and Islam as the dangerous Other by the war on terrorism casts doubt on their integrity and loyalty as citizens (2005:135). Therefore, all Muslims are under suspicion of opposing Australian laws and values. Costello's dog-whistle politics ensures that voters who want politicians to adopt a harder stance on Muslims are satisfied, while simultaneously protecting himself from charges of discrimination. Finally, as with his political counterparts, he adheres to the citizenship-as-gatekeeper notion.

The way the situation has been framed in Australia had three dimensions. Firstly, government ministers are keen to pander to right-wing conservatives who feel threatened by immigration. Due to the fear of terrorism, it is no longer just about a threat to Australian culture but also a threat to security and physical safety. Although a citizenship test is in no way an adequate anti-terrorism initiative, the demand for immigrants, especially Muslim immigrants, to adhere to Australian values seems to be regarded as a prophylaxis against terrorist tendencies. The idea is that if people respect our laws and uphold our values, they will not engage in any terrorist activities against us, not only because they share our way of thinking and are on 'our' side, but also because peacefulness and non-violence in fact belong to our values system. A citizenship test may be considered a practical tool to regulate insiders (upholders of Australian values) and outsiders (those who oppose our values). Whether it actually does so or whether it is simply a way of showing conservative groups that the government is taking a tougher stance on immigrants will be discussed in the Citizenship Test section.

## Germany

In Germany the trajectory of inclusiveness and exclusiveness is not as clear-cut as in Australia. In the new legislation of 2000, different aspects of German citizenship are incongruous with each other. For example, Faist (2007:68) believes that the puzzling result of the 2000 reforms – a liberal *ius soli* regime with a rather restrictive dual citizenship law – was simply a consequence of a political compromise between very different interpretations of the function of citizenship law and the integration of immigrants. Despite this, the Nationality Act of 2000 can be seen as a large step towards inclusiveness. Reforms since 2000 can therefore be judged on whether they are more or less inclusive than the Nationality Act of 2000. As in Australia, it appears that due to concerns about terrorism, Muslim immigrants and the adherence to Western values, laws regarding naturalisation have become more restrictive since 2000.

One of the most controversial developments in the naturalisation process occurred in 2006 when the state of Baden-Württemberg introduced an 'attitude test'<sup>6</sup> as a requirement for acquiring German citizenship in that state. On 1 January 2006, the test came into effect whereby only applicants

whose attitude towards liberal democratic values are in question, or who come from one of 57 Islamic countries, or are Muslims have to take the test. The applicants are asked for their views on such things as forced marriages, domestic violence, religious freedom and terrorism. The Baden-Württemberg Interior Minister, Heribert Rech, who introduced the test, argued that

When there are doubts about an applicant's values, the easiest thing is for an official to have a talk with him...It needs to be about his view of our constitution, of tolerance, of sexual equality, or of the state's monopoly on the use of violence. Only with these questions can we come close to finding the answers we need. (Furlong, 2006).

Rech implies that all Muslims' values are questionable and could be incompatible with German values and the only way to resolve the situation is through a test on their 'attitudes'. It appears that the introduction of the test is a knee-jerk reaction to several high-profile cases in Germany in recent years involving Muslims. These cases dealt with issues such as terrorism, honour killings, forced marriages, and the wearing of headscarves by teachers in schools, which opponents believed to contravene the liberal values of secularism and equality between men and women. Although there is no doubt that the first three issues are against German law, the 'attitude test' asks about very subjective and personal matters such as whether the applicant would prevent his or her daughter from dressing like German women, or whether the applicant believes there are jobs that are only suited to men or women. Rech wishes to use citizenship as an instrument to exclude people based on how much or how little they have embraced 'liberal' values. This is highly questionable given the subjectivity of such criteria and the fact that there are likely to be many conservative Germans who would not be 'liberal' enough to pass the test.

Political discussions about adherence to German values were by no means a new phenomenon in 2006. In 2000 a minister for the German conservative party the Christian Democratic Union (CDU), Friedrich Merz, hijacked the term *Leitkultur*, meaning 'leading culture', to advocate migrants' assimilation into German 'leading culture'.

The term was originally coined by Bassam Tibi in his 1998 book *Europa ohne Identität* [Europe without Identity] to advocate a core European culture of such things as democracy, secularism, human rights and civil society. Schwarz (2004:218) argues that conservative politicians' support for the *Leitkultur* stems not only from a nostalgic longing for 'national unity', but also from their belief that migrants are symbolically questioning the German 'national order' through such things as their dress and language. It is therefore not enough that migrants obey German laws and accept the German constitution. Social and political rights must be bound to 'Germanness' and being a part of Germany's historical *Volk* (Pautz, 2005:45). The Baden-Württemberg test can be seen as an embodiment of such German *Leitkultur* ideals.

Although the Baden-Württemberg test was extremely contentious, the idea of a citizenship test per se was not completely unpopular. A few months after the introduction of the Baden-Württemberg 'attitude test', the state of Hesse discussed the implementation of a 'Knowledge and Values Test', which would have to be taken by all applicants for citizenship. The test would consist of 100 questions about German history, politics, culture and geography. Applicants would have to answer at least half correctly in order to pass. The Minister of the Interior for Hesse, Volker Bouffier, stated that he wanted such a test to be a model for the whole of Germany, and that

the current prerequisites were only based on minimum standards and did not prevent the development of 'parallel societies'<sup>7</sup> (State Government of North-Rhine Westphalia, 2006). Bouffier demands that immigrants not only understand, but also accept and observe the German value system if they want to become German citizens. As in Baden-Württemberg, he believes that migrants must subscribe to a prescribed set of 'German' values before being allowed to naturalise.

7. He refers here to ethnic enclaves that certain migrant groups have built up in Germany which allegedly resemble the migrants' home country more than Germany.
8. In German: Grundkenntnissen der Rechts- und Gesellschaftsordnung und der Lebensverhältnisse in Deutschland.
9. Level B1 is defined as 'Can understand the main points of clear standard input on familiar matters regularly encountered in work, school, leisure, etc. Can deal with most situations likely to arise whilst travelling in an area where the language is spoken. Can produce simple connected text on topics which are familiar or of personal interest. Can describe experiences and events, dreams, hopes & ambitions and briefly give reasons and explanations for opinions and plans.' (Council of Europe).
10. In German: So sind ausreichende deutsche Sprachkenntnisse für die individuelle Integration von entscheidender Bedeutung.
11. In German: Eine Staatsbürgerschaft zu Ramschpreisen ist mit uns nicht zu machen.
12. 'Wer deutscher Staatsbürger werden will, muss unser Land kennen, seine Werte teilen und seine Rechtsordnung anerkennen... Hier gilt das deutsche Grundgesetz und nicht die Scharia...Wir entscheiden, wer Deutscher wird. Und wir lassen nicht jeden hinein.' (Kruse, 2006).

The Hesse test never came to fruition, however, because in August 2007 the amended Nationality Act came into effect, which stipulated a nation-wide citizenship test for all applicants starting from 1 September 2008. The amendments to the Nationality Act were designed to align it with the eleven policy guidelines of the EU on immigration and asylum which have been promoted in the name of 'integration'. The Federal Ministry of the Interior states that due to this integration policy, knowledge of German civics will now be required for naturalisation. Civics is considered to be 'Basic knowledge of the legal and social order and the way of life in Germany.'<sup>8</sup> In addition to the civics test, another guideline stipulates competency in the national language on the level of at least B1 on the 'Common European Framework of Reference for Languages'<sup>9</sup>, as 'sufficient German language skills are crucial for an individual's integration.'<sup>10</sup> (Federal Ministry of the Interior, 2007). Before the Act came into effect, the level of German that applicants had to show was not clearly defined, as the Nationality Act only stated that the applicant for citizenship cannot be naturalised if he or she does not possess 'sufficient German language skills' (Staatsangehörigkeitgesetz, 2005). The language requirement combined with the civics test present a formidable challenge to applicants for naturalisation, especially since Germany, unlike Australia, does not have a points-based skilled migration programme that allows applicants to migrate permanently if they hold certain qualifications and possess a certain level of German. As in Australia there are also sentiments that Germany's citizenship is being given away too easily, with one politician from the CDU in the state of Rhineland-Palatinate stating that if the CDU is elected they will make a civics course and exam compulsory because 'We're not giving away citizenship at bargain basement prices'<sup>11</sup> (Welt Online, 2006). This implies that citizenship can function as a commodity which immigrants had received cheaply in the past, but would now have to 'pay for' by passing the citizenship test.

The 2007 amendments mean that with this new civic-based citizenship, the previous citizenship restriction based on blood has now become a restriction based on 'values'. Joppke (2007) argues that civic integration has the potential to be discriminatory, especially to Muslims who are negatively targeted as an ethnic group in Europe under the guise of liberalism. This can be seen clearly in the arguments for the Baden-Württemberg 'attitude test'. Thus the exclusionary ethnic nationalism from yesterday becomes today's civic nationalism which excludes based on so-called liberal values. Personal opinions, choices and lifestyles which do not contravene German laws are scrutinised, especially in the case of Muslims. Edmund Stoiber, the minister of Bavaria, expressed his support for a compulsory nation-wide citizenship test in 2006 and said:

Whoever wants to become a German citizen has to know our country, share its values and recognise its legal system... Only the Constitution is valid here, not Sharia law...We decide who becomes German. And we don't just let anyone in.<sup>12</sup> (own translation).

Stoiber's argument strongly suggests the German government is deliberately toughening the screening process for naturalisation in order to keep out 'undesirables'. Unlike in the past where 'blood' was an objective determiner of a right to German citizenship, 'values' appears to be a highly subjective criterion that can potentially be manipulated to only let in 'desirable' immigrants. As will be shown in the next section, the fact that Germany has traditionally not had a proper screening process before permanent residence is granted plays a role in its citizenship test – both the implementation and the content.

## The Citizenship Tests

The Australian citizenship test came into effect on 1 October 2007. The test consists of 20 multiple-choice questions drawn from a pool of 200. To pass the test, applicants must answer at least 12 correctly, including all three on the responsibilities and privileges of Australian citizens. The test is administered in a computer-based format so that applicants have to click on what they think is the correct answer. Applicants may take the test as many times as they like, though they must pre-book an appointment for each time they sit the test. The test material is all based on the handbook *Becoming an Australian Citizen* which can be downloaded or ordered from the website of the Department of Immigration and Citizenship free of charge. The questions, however, are strictly confidential, with the website of the Department only offering five sample questions.

The German citizenship test, which came into effect on 1 September 2008, has a similar format to the Australian test. There are 33 multiple-choice questions drawn from a pool of 300 national questions and ten state-specific questions, depending on the federal state the applicant lives in. The 300 questions cover the three topics of 'Life in a democracy', 'History and Accountability' and 'People and Society'. The 10 state-specific questions ask about matters related to the state in which the applicant lives, such as the state's coat of arms or the title given to the state's minister. Unlike the Australian test there is no handbook with material applicants need to study, but all 310 questions are available for download from the website of the Department of Migration and Refugees.

The following is a comparison chart of both countries' tests.

	Australia	Germany
No. of questions	20 (17 general questions + 3 on responsibilities of an Australian citizen)	33 (30 national questions + 3 state-specific questions)
Out of pool of:	200	310 (300 national questions + 10 state questions)
Time limit	45 mins	60 mins
Pass mark	12 questions + all 3 on responsibilities must be correct	17 questions
Cost	AU\$240 for entire application, incl. test (no additional charge if test is taken more than once)	€255 for application + €25 for each time test is taken
No. of repeats	As many as necessary	As many as necessary, but each attempt costs €25
Exemptions	Applicants under 18 and over 60 and those with a disability	Applicants under 16 and those who are affected by illness, disability or age. Those with a German school leaving certificate.
Preparation	Applicants must study the handbook on their own, but it is available in 29 different languages.	Applicants can take a course at an adult education centre. There is no standard handbook but all questions are available on the internet.

13. Welche Lebensform ist in Deutschland nicht erlaubt?  
 Mann und Frau sind geschieden und leben mit neuen Partnern zusammen.  
 Zwei Frauen leben zusammen.  
 Ein allein erziehender Vater lebt mit seinen zwei Kindern zusammen.  
 Ein Mann ist mit zwei Frauen zur selben Zeit verheiratet. (Bundesamt für Migration und Flüchtlinge, 2008).
14. In German: 'streitbare Demokratie', 'Gewaltmonopol', and 'Rechtsstaat'.

The tests are similar in content, and it is worth questioning why this is so in light of the two countries' vastly different history of migration policies. In both Australia and Germany what are considered to be the most important 'national values' are the liberal values of democracy, freedom of religion, freedom of speech, and the equality of men and women. In the citizenship test material, both countries place a large emphasis on these values and rights. As was shown in the above section, politicians in both countries have been stipulating an acceptance of these 'national values' as a requirement for citizenship. There is an implication here that migrants do not already observe these values, and Muslims have been singled out as *the* minority group that is least likely to observe them. Amiraux and Jonker (2006:9) argue that as a result of 9/11 and the Madrid bombings, Islam has been charged with not being compatible with Western values such as democracy and human rights, and there are suspicions that Islam supports principles that justify terrorism. The main values that both Australia and Germany purport do seem like an attempt to ward off anyone with 'illiberal', non-Western ideas. The Australian handbook includes statements about what is *not* allowed or *not* done in Australia, for example, 'Australians reject the use of violence, intimidation and humiliation as ways to settle conflict in our society', 'religious laws have no legal status in Australia', and '...bigamy [is] illegal'. Similarly, the German multiple-choice test questions often offer answers which contrast the supposed ideals of 'illiberal' people or Muslims with those of more 'enlightened' people. For example:

Which of the following is not allowed in Germany? <sup>13</sup>

- A man and woman are divorced and live together with their new partners
- Two women live together
- A single father lives together with his two children
- A man is married to two women at the same time

The difference in the test material between Australia and Germany lies in the depth and complexity of the concepts that applicants for citizenship need to understand. While the Australian citizenship handbook talks generally about 'support for parliamentary democracy and rule of law' and covers the Australian Government in six out of 40 pages in the handbook, the German material for the adult education centre course requires more in-depth knowledge of German political structure. The topic 'Life in a democracy' takes up more than half the curriculum and demands a very sophisticated understanding of German political terms such as 'militant democracy', 'monopoly of force', and 'constitutional state'<sup>14</sup>. Much of the curriculum reads like a political science course rather than a citizenship course. Since there is no handbook or textbook that explains these concepts, applicants who do not have the time or money to attend the adult education course must study the 310 questions on their own. Many of the concepts are exclusive to German politics and the German language so that even a translation into the applicant's mother tongue might not render them understandable.

Since the majority of Germany's immigrants have not migrated on the basis of their qualifications or skills, the citizenship test appears to possibly take on the new function of being a *de facto* skilled migration policy. Conservative politicians have made the implementation of a structured qualified migration programme difficult. When the centre-left party proposed to award 20,000 temporary visas to IT specialists from outside the European Union, the conservative CDU party strongly criticised the move.

A CDU minister Jürgen Rüttgers coined the slogan 'Kinder statt Inder' (children instead of Indians), which refers to the fact most of the specialists were to come from India, to promote anti-foreigner sentiments (Henning, 2000). Legislation in the German Immigration Act allows only highly qualified migrants to apply directly for permanent residence in Germany, provided they have a yearly income of €86,400 or more. Due to this requirement, Germany has received very few highly qualified migrants<sup>15</sup>. There are even heavier restrictions on all other groups, including qualified migrants. The citizenship test therefore appears to satisfy both left and right-wing politicians in that it has both an exclusionary and inclusionary function. Those who are well-educated and speak fluent German are rewarded for their efforts at 'integrating.' The fact that the residential requirement for citizenship is reduced from eight to six years for fluent German speakers or migrants who are very well 'integrated' supports the idea that Germany is searching for 'desirable' skilled migrants without officially implementing a skilled migrant programme.

On the other hand, in Australia, the test is relatively easy to pass, which leads one to question what its exact purpose is. Although the questions are not publicly available, the content of the handbook implies that most questions are straightforward and do not command an understanding of complex concepts. Rather than the emphasis being on politics as in the German test, the Australian test places importance on national symbols and legends. There are for example two pages about sport, two pages about Australian 'diggers' (soldiers) in WWI and WWII and another whole page devoted to the ANZAC<sup>16</sup> legend. Test questions could be about Australia's national flower, Australia's national colours or on what date the ANZAC tradition was forged. The nostalgic, nationalist sentiments present in the Australian test content have the exact appeal that right-wing voters are seeking. That it is simplistic with little practical use seems negligible. The test appears to be designed specifically to maximise pass rates. Indeed in the first nine months of the test, 95.5 percent of applicants passed on their first or subsequent attempt (DIAC, 2008). The fact that applicants can re-sit the test as many times as they need to pass without any penalty certainly indicates that the test is more about the people who wanted the test, rather than those who are sitting it.

## Conclusion

The recent changes to the citizenship acts in Australia and Germany reflect the current preoccupation with finding a citizenship model that ensures future citizens not only respect the laws of the corresponding country but also understand and accept the values of that country. This is partly tied in with the current Western discourse on Muslims which implies that they are, as a migrant group, considered more dangerous, more violent and more against the social order of the country than any other migrant group. The fact that the residential requirements in Australia and Germany have started moving to a similar position indicates that both countries want to adopt a model that ensures their 'integration'. Politicians in Australia felt that two years were not enough to learn about 'our way of life', and in Germany the recent introduction of the lower six-year requirement for those who already speak fluent German has meant that people are being rewarded for their efforts in successfully 'integrating'. Yet in the political rhetoric surrounding the introduction of a citizenship test, there is very little mention of integration. The heaviest emphasis appears to be on the adoption of liberal or 'national' values and how citizenship may be used to exclude those who do not adhere to such values.

15. It was reported that in the year 2005, only 900 highly qualified migrants arrived in Germany. This low number can partially be attributed to the high income requirement (Netzwerk Migration in Europa, 2006).

16. Stands for the Australian and New Zealand Army Corps.



Despite the similarities in recent developments across the two countries, we still see traces of the traditional policies and attitudes in each country in the changed citizenship laws – Multiculturalism in Australia, and a dichotomy between Germans and ‘foreigners’ in Germany. In Australia the citizenship handbook is available for download in 29 different languages other than English. This still aligns with the multicultural notion that, as important as English is, immigrants should be able to receive information about Australia in their own language. On the other hand in Germany, the content of the test demands higher intellectual capacity than the Australian one, and applicants must pay €25 each time they re-take the test. Applicants for citizenship must also now provide official documentation to show they have reached a sufficient level in written and spoken German. It appears that immigrants need to be *more* ‘liberal’ and *more* knowledgeable about German history and politics than the Germans themselves in order to have a chance at being accepted as ‘Germans’.

What is particularly significant, however, is that after 50 years of vastly divergent migration and settlement policies, Australia’s and Germany’s citizenship policies have begun to resemble each other in just a few short years. This has been to a certain extent brought on by September 11, the ‘war on terror’ and the concomitant discourse on Muslim immigrants living in Western countries. It is difficult to tell whether the national citizenship tests will produce the desired result of a more cohesive and peaceful society, or whether they will further marginalise certain minority groups, especially Muslims. It appears, however, that the new measures are in to some extent an attempt to reassure the majority population that something is being done to prevent ‘undesirable’ immigrants from naturalising. In Australia, the superficial reassurance to conservative right-wing voters seems to be the overriding factor, whilst in Germany the measures might well have the desired result of becoming a covert skilled migration programme.

### Addendum

The availability of recently-published documents and data in regards to the citizenship tests in both Australia and Germany necessitates some additional comments.

Firstly, in contrast to fears about the difficulty of the German citizenship test, nearly all applicants have been able to pass. Data on the German citizenship test pass rate released by the Deutscher Volkshochschul-Verband (German Adult Education College Association) has shown that from September to October 2008, 8894 applicants sat the test across Germany, with 98.9 percent applicants passing. In Berlin the pass rate for the 1647 applicants in the months September to November 2008 was even higher at 99.4 percent. The state of Bavaria also possessed similar data as of April 2009 with 99 percent of the 6000 candidates passing (Migazin, 2009). This data is comparable to the pass rate of the Australian citizenship test in Australia, which was reported as 96.7 percent for the period 1 October 2007 to 31 March 2009 in the April 2009 evaluation of the test. The Australian pass rate appears to steadily increasing, with the rates at 93.6 percent in February 2008, 95.5 percent in July 2008 and 96.3 percent in October 2008. The Australian evaluation reports offer a more clarifying picture of the situation. While 99 percent of skilled migrants passed on their first or subsequent attempt, this only applied to 84 percent of humanitarian or refugee entrants. Until the German test is evaluated in detail, it is not known what kind of

migrants are reaching the 98 to 99 percent pass rate. There have been fears that it was only qualified migrants with good language skills that were initially registering for the test, while others waited to see what would happen (Berliner Morgenpost, 2008).

Another contributing factor to the high pass rate in Germany could be the fact that the entire list of multiple-choice questions is available for download online. It would be possible to pass the test by rote learning the correct answers. This has been the basis of the argument for why the test questions have not been published in Australia for the Australian citizenship test. A review committee in a report published by the Commonwealth of Australia in August 2008 recommended that the Australian test questions be made publicly available. The committee consulted testing experts as to the educational validity of publishing the questions and found that publishing the questions, but not the answers, would promote learning and understanding by encouraging applicants to research the answers from the published resources. However, the Australian government responded negatively to this recommendation by stating that “maintaining the confidentiality of the test questions will ensure that the integrity and rigour of the test questions is not diminished.” (2008). This leads one to question whether the integrity of the German test questions is also diminished by their publication.

17. Aktionsprogramms der Bundesregierung–Beitrag der Arbeitsmigration zur Sicherung der Fachkräftebasis in Deutschland

Although it is not yet known if pass rates in Germany are representative of what is to come, it is worth asking if the questions are published with the intent that everyone who has the required diligence, intellectual capacity and language ability should pass. The publication of the questions ensures that those who study all the questions and possess the necessary educational background and German language skills to understand them are almost guaranteed to succeed. Conversely, the complex concepts and high level of German in the test makes it much more difficult for migrants with poor German skills and low education qualifications to pass. This again raises the issue of whether Germany is increasingly attempting to target more qualified and skilled migrants. Indeed the reform “Action program of the federal government – contribution of skilled migration to maintaining a professional workforce in Germany”<sup>17</sup> took effect on 1 January 2009. This included the lowering of the income requirement for highly qualified migrants from €86,400 to €63,600. These implicit measures seem to be moving Germany towards a skilled migration programme in a gradual way so as to not offend conservative politicians and voters. Arguments about transmitting German values to migrants appear to slowly be overshadowed by a focus on the ‘usefulness’ and abilities of migrants, especially in light of the hitherto outstanding pass rates.

The controversy surrounding the actual implementation of a citizenship test in both countries seems to have somewhat subsided. The questions now are more related to how to best administer the test, as is seen in the publication of the Australian review committee’s report. One of the major recommendations to be supported by the Australian Government is a complete revision of the test by August 2009 to one that is based on the Pledge of Commitment, which reads as follows:

*From this time forward [under God]  
I pledge my loyalty to Australia and its people  
whose democratic beliefs I share,  
whose rights and liberties I respect, and  
whose laws I will uphold and obey.*

Far from being straightforward, this will be sure to raise brand new questions as to what things such as 'loyalty to Australia and its people' and 'rights and liberties' actually entails. It will certainly be of interest as to whether any traces of issues relating to Islam or Muslims will appear, especially in regards to democracy and the upholding of the law.

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# CONCEPTUALISING CITIZENSHIP: TOOL OR REWARD FOR INTEGRATION?

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## Introduction

Since the late 1990s and especially since the events of 9/11, the acquisition of citizenship has become more difficult for immigrants living on a permanent basis in a number of European states. Governments in the Netherlands, Denmark and Germany have introduced stricter naturalisation requirements, including more stringent language tests and additional examinations on the history, constitution and so-called “public values” of their states. This trend is also visible in Britain, where citizenship policy has been transformed as part of a broader set of policy changes based on a widespread perception that previous “multicultural” approaches to integration have failed. Evidence of residential segregation and social and economic disadvantage among certain groups in Britain, especially non-European and Muslim groups, is being blamed on the “excessive tolerance” for cultural differences that characterised earlier policies.<sup>1</sup> In 2002, after decades of boasting one of Europe’s most liberal citizenship policies, the British government introduced new legislation requiring citizenship applicants to pass an English language test and a test on “knowledge of life in the UK”. More recently, the government has introduced a bill to reform Britain’s citizenship rules in line with a new concept of “earned citizenship” which, if accepted by Parliament, will see the introduction of further integration requirements ahead of citizenship.<sup>2</sup> British and other European governments seem to think that by moving concerns about language and identity to the centre of debates about citizenship and immigration they will succeed in transforming their populations of immigrant origin into more integrated and loyal citizens.

This chapter assesses the effectiveness of the changes that are being made to citizenship policy in Britain by taking a closer look at the relationship between citizenship and integration. More specifically, it examines the role that language and identity – as opposed to other factors associated with citizenship such as equality and participation – play in the success of the integration process.

Focusing on Britain, but drawing implications for all European states, the chapter argues that the government is right to raise the status of becoming a British citizen, for naturalisation remains the most potent measure of integration for immigrants in a receiving society. However, the chapter

1. Trevor Phillips, former chair of the Commission for Racial Equality and current chair of the for Equality and Human Rights Commission, has spoken about Britain as “sleepwalking to segregation” as a result of the way that multicultural policies have been implemented (Gillan 2005). Concern about multiculturalism and its tendency to “exacerbate divisions” has in turn informed the government’s decision to emphasise “Community Cohesion” as the new platform of its integration policies (Kelly 2006).
2. Borders, Citizenship and Immigration Bill [HL 2008-2009], currently undergoing parliamentary debate (introduced to the House of Lords on 14 January 2009).



also argues that the current reforms reveal a lack of understanding, or at least confusion, on the part of the government about the dynamics of the citizenship process and its implications for the integration of culturally diverse societies. Much more will be said about the government's confusion in this chapter. By way of introduction, it is sufficient to recall the proposal made by the government in 2007 to withdraw the system of universal free English language tuition for immigrants (a proposal that was later reversed). An enigmatic proposal for a government bent on arguing that lack of English language skills is the biggest barrier to integration for immigrant communities.

The first part of the chapter offers some general remarks on the relationship between citizenship and integration. It suggests that this relationship can be usefully conceived in terms of a two-fold metaphor where citizenship is understood either as a tool facilitating the integration of multi-ethnic societies, or as a reward to be handed to immigrants that have successfully "completed" the integration process. The second part of the chapter examines the British case. It argues that, possibly owing to the origins of the concept of "British citizenship" in Britain's imperial past, successive British governments have failed to develop a clear conception of the relationship between citizenship and integration. This failure, which the chapter argues continues to characterise British policy-making, means that citizenship, as a legal status and as a policy, has to this day played a negligible role in efforts to integrate Britain's multi-ethnic society. While welcome in providing a clearer articulation of the importance of citizenship, recent amendments to British citizenship policy continue to draw confusingly on both models of citizenship as a "tool" and as a "reward", although there seems to be a tendency to emphasise the latter approach.

The third part of the chapter explains why it is valuable to analyse the citizenship policies of other European states in order to assess the merits of the British approach, notwithstanding each country's particular national and historical trajectory. The fourth part highlights the potential dangers of the "reward approach" to citizenship by reviewing the recent experience of one European country – Estonia – that has explicitly pursued policies based on this model, policies which have only served to create greater disaffection among the country's ethnic Russian minority. The final part of the chapter identifies a series of recommendations for British (and other European) policymakers that flow from this analysis, making a clear case in favour of adopting a model of citizenship as a "tool" for integration.

### **Thematic remarks on citizenship and integration**

Before moving on to the empirical discussion, some general remarks on the relationship between citizenship and integration are in order. Integration can be defined, in the most general sense, as the process of ensuring the full participation of an individual in a society's economic, social, cultural and political life. The terms of integration vary from one state to another however, as each state embarks on its own process of negotiating the adjustments that newcomers and native-born residents should make in order to ensure that minority and majority groups are able to participate in shaping society on equal terms. Where newcomers are expected to do all or most of the adjusting, the integration model can be described as "assimilationist". At the opposite extreme, where native-born residents (their practices and institutions) are called on to make adjustments as well, the model of integration can be described as

multicultural. All models of integration – wherever they are located on the multiculturalism versus assimilation spectrum – depict the acquisition of citizenship as a crucial step for individuals who enter and wish to be integrated in a society. Although there is a trend in international law to provide permanently residing non-citizens with an ever greater number of socio-economic and cultural rights, the citizens of a state continue to remain privileged in having exclusive access to an important set of political rights.<sup>3</sup> Only the citizens of a state have the right to stand for local, parliamentary or presidential elections, and the right to vote in parliamentary elections (and in some countries, in local elections as well). Whatever other rights non-citizens may enjoy, therefore, without access to citizenship they will remain excluded from the democratic process.

Where the different models of integration diverge is in the role that they ascribe to citizenship within the integration process. In the assimilationist model, citizenship is viewed as the “reward” to be handed to individuals who have proven their loyalty to the state, often by renouncing their previous “national identity”. Individuals can acquire the citizenship of a state only when they are understood to have “completed” or are close to “completing” the integration process. States that subscribe to this view will generally demand that immigrants pass arduous naturalisation tests, including high levels of proficiency in the dominant language, knowledge of a state’s history and/or constitutional system and subscribing to the “public values” of a state. Access to dual nationality – the most visible way for immigrants to develop and maintain multiple identities – is normally restricted in these states, even if certain exceptions to this rule are often made. Austria’s naturalisation criteria, which one study describes as the most onerous in Europe, illustrate this model well.<sup>4</sup> Here, long-term residents of immigrant origin who wish to acquire Austrian citizenship are required to either pass a language certificate test or participate in a mandatory integration programme which consists of language and civic education courses (the cost of which must partly be borne by immigrants themselves). Failure to participate in the course can lead to non-renewal of the residence permit and even threat of expulsion. Immigrants who naturalise as Austrian citizens must renounce their previous nationality.

In the multicultural model, citizenship is understood as an important tool for integrating societies of heterogeneous origin rather than as a reward.<sup>5</sup> According to this conception, the rights and responsibilities that come with citizenship are themselves a factor encouraging further integration. The acquisition of citizenship helps to shape individual loyalties, not in an exclusive way but by accepting the likelihood of multiple identities. In contrast to the assimilationist model, which considers proficiency in the dominant language and culture of a receiving state to be a “marker” of integration, the multicultural model assumes that immigrants will develop a sense of loyalty to the state not by absorbing elements of the dominant culture, but rather by participating actively in a state’s economic, cultural and political institutions. Since citizenship is a necessary (although not sufficient, as we shall see) pre-condition for immigrants to participate as equal members of a society, the naturalisation requirements of states that subscribe to this view will be limited to modest residency requirements and simple language tests, which immigrants can pass with little effort. Sweden’s nationality legislation, considered among the most generous in Europe, is often identified as exemplifying this model. In order to naturalise as a Swedish citizen, immigrants need only fulfil a series of residence requirements; there are no language or other “integration” tests whatsoever. Sweden also accepts dual nationality for immigrants (Howard, 2005).

3. The exception of course is the case of EU nationals living in other EU Member States, who also enjoy certain (but still limited) political rights in their host society.
4. See the Migrant Integration Policy Index developed by the Migration Policy Group and the British Council, available at: <http://www.integrationindex.eu/integrationindex/2291.html>.
5. Bauböck (2006) and Kymlicka (2003) both make a similar distinction between states that see citizenship as a tool and states that see citizenship as a reward for integration.

## Citizenship and integration in Britain

Looking back at the period between 1948, when the concept of citizenship developed in British law, and the present, one is struck by the failure of British policymakers to develop a clear conception of the relationship between citizenship and integration.<sup>6</sup> Certainly, decisions concerning the scope and implications of citizenship were taken during these years, but the resulting decisions failed to follow any coherent approach. To the extent that the policy decisions were articulated using the language of “citizenship as a tool” or “citizenship as a reward” for integration, this was more by accident than by design.

6. Hansen (2000) and Karatani (2003) offer two excellent surveys of the evolution of British citizenship.
7. The latter were given one of two different statuses: British overseas citizenship, which was conferred to persons who, for various reasons, did not acquire the citizenship of the newly independent Commonwealth states where they lived, and British dependent territories citizenship conferred to residents of Britain's remaining dependent territories. Neither BOCs nor BDTCs had the right to enter the UK. See Hansen (2001) for further details.
8. The notion of a “genuine link” between the state and an individual is the generally accepted criterion for the conferral of citizenship, following the International Court of Justice's famous *Nottebohm Case* of 1955. However, there is still no generally accepted definition of a “genuine link”, although this is understood to be established by one or more of the following rules: parental descent, birth on the territory of a state, years of residence and/or knowledge of a state's official language. See Thiele (2005) for further details.

At first glance, the concept of citizenship in the British Nationality Act of 1948 appeared to articulate a model of citizenship as a tool binding together the Empire and Commonwealth. The act, which was adopted by the government of Clement Attlee in the closing days of the British Empire, brought into being two concepts: “citizenship of the United Kingdom and colonies” (CUCK), and “Commonwealth citizenship”. Both types of citizenship, which were used interchangeably, were conferred indiscriminately to all British subjects living in the colonies and independent Commonwealth countries. By virtue of this act, CUCKs and Commonwealth citizens enjoyed full rights of entry in the UK. However, by the 1960s, as more than half a million non-white British subjects moved into the UK, British policymakers went back on this system and introduced a series of immigration controls, which put British nationals born in the Commonwealth (with certain exceptions) on the same legal footing as aliens – that is, facing quotas for entry and naturalisation criteria. By the 1960s, the concept of British citizenship had therefore become senseless: it was neither a symbol of nationhood, covering as it did persons from across the multi-national Commonwealth; nor was it a status conferring any substantive equality in relation to the right to enter and settle in any particular part of British territory (Lester, 2007).

The Nationality Act of 1981 went some way towards correcting this situation by finally defining “British citizenship” as excluding British nationals born in the colonies,<sup>7</sup> thereby bringing the concept closer to the way that citizenship was understood by that time in other European states as signifying a “genuine link” between an individual and a state.<sup>8</sup> The 1981 act also enshrined a generous set of naturalisation rules – at least relative to the rules that existed in other European countries – suggesting that Britain was developing a conception of citizenship as a tool for integration, based on facilitating access to citizenship for immigrant groups. First-generation immigrants wishing to apply for British citizenship needed only to live in the UK for five years, demonstrate nominal proficiency in the English language (to be verified by the applicant's affirmation rather than a test) and demonstrate “good character”, which was interpreted as financial solvency, the absence of a significant criminal record and no attempt to provide false information in the naturalisation process. In contrast to the strict *ius sanguinis* (citizenship by descent) rules that operated in some European countries like Germany, the children and grandchildren of migrants born in the UK could become British citizens at birth or, depending on the status of their parents, through a simple process of registration. In addition, dual nationality was allowed, one of the earliest citizenship laws in Europe to do so (Hansen, 2001).

The fact that British citizenship was developing along the lines of a “tool” for integration also seemed to be reflected in the explicitly multicultural model of integration which was espoused by British policymakers. This did

not stress the acculturation of individuals but rather put the emphasis of integration on combating discrimination and the need to respect cultural differences (Bertossi, 2007). Indeed, during the 1980s and 1990s, Britain developed some of Europe's most advanced provisions concerning non-discrimination and equality, including a Race Relations Act, which (in its 2000 amended form) can be considered a model for the rest of Europe, prohibiting direct and indirect discrimination on the grounds of race or ethnicity by both private and public bodies, and introducing an innovative system of positive duties which requires public authorities to actively promote race equality and good race relations (Fredman, 2001).

However, a closer look at the experience of minority groups in Britain during these years indicates that, in practice, the laudable principles enshrined in British non-discrimination legislation have not been systematically applied. Although progress has been made in terms of reducing inequalities, persons belonging to certain minorities, especially persons of Bangladeshi, Pakistani and black African descent, continue to face greater difficulties in their access to employment than members of the majority population (Commission for Racial Equality, 2007). The introduction of mandatory "equality schemes" by public authorities in Britain –with the aim of promoting race equality in all their recruitment and policy-making functions– has likewise only proceeded slowly and unevenly. Where equality schemes exist, they are often implemented by focusing on procedures rather than by identifying targets in order to achieve equality of outcomes. The result, according to the government's own statistics, is that persons belonging to certain ethnic minorities are still more likely to experience sub-standard housing conditions and to suffer more serious health disorders than the rest of the population (Department for Communities and Local Government, 2007). In the sphere of criminal justice, persons belonging to certain minority groups, especially black and Asian groups, continue to be disproportionately targeted by police stop-and-search practices, adding to the general feelings of disaffection felt by these groups (Reza & Magill, 2006).

A similar gulf between principles and reality characterises Britain's citizenship policy. The rules established for British naturalisation in 1981 may have been comparatively lenient, and indeed, the rate of naturalisation in Britain was one of the highest in Europe, along with France (Hammar, 1985). However, little was done during these years to encourage the active participation in British political life of the new cohorts of naturalised citizens. By the late 1990s and early part of this decade, a number of critical reports (Anwar, 2001; Ali & O'Connell, 2002) had been published indicating the poor levels of ethnic minority participation and mobilisation in British front-line politics. The same British governments that facilitated access to citizenship gave insufficient attention to the institutional and structural barriers that hindered the effective exercise of political citizenship rights by Britain's minority ethnic populations. In 2007, the government announced that it would examine this problem by commissioning a report which looked at whether introducing specific and time-limited positive action measures would be likely to achieve the desired outcome of more diverse ethnic representation within the elected community (Comments, 2007). However, no specific measures to remedy the under-representation of minority ethnic groups in British politics have yet been adopted.

By the late 1990s, and especially after the events of 9/11 and subsequent terrorist attacks in several European countries, a consensus emerged in British policy-making circles about the need to reform Britain's integration model. Residential segregation and social and economic disadvantage among minority ethnic groups was considered evidence of the "failure"

of multicultural policies – even if, as we have seen, these policies were poorly implemented and cannot be described as “multicultural” in practice. The government’s response, however, has been ambiguous. On the one hand, it has introduced legislation and policies that comes closer to the “reward” model by placing concerns about language and identity at the centre of debates about citizenship. In 2002 a new Nationality, Immigration and Asylum Act was adopted which required citizenship applicants to pass an official language test or provide documentary evidence that they had achieved competence in English, Welsh or Scottish Gaelic at ESOL (English for speakers of other languages) entry three level, where necessary by enrolling in specially designed language courses. Applicants must now also pass a new test on “knowledge of life in the UK”, consisting of 24 multiple-choice questions including, among other things, questions about “British” customs and traditions.

The government’s most recent reforms point even further in the direction of the “reward” approach. This is first of all discernable in the language of the ‘Borders, Citizenship and Immigration Bill’, currently before parliament, which refers to putting would-be citizens “on probation” to ensure that they have “earned” their right to full British citizenship. The “reward” approach is also evident in the Bill’s introduction of further integration requirements for citizenship, including the need for immigrants to pass English language tests at an earlier stage in the application process, to be economically self-sufficient, and to play an active part in their local community, which the Bill refers to as demonstrating “active citizenship”, a phrase coined by the European Commission with a rather different meaning, as will be explained later in this chapter. The Bill’s introduction of a multi-speed naturalisation system, in which immigrants who undertake voluntary work speed up their progress, while those convicted of minor offences will have their applications delayed, is still further in line with the “reward” approach.

In other ways, however, British policymakers appear to be emphasising the importance of citizenship as a “tool” for integration. The same 2002 act that introduced the citizenship tests brought into being new citizenship ceremonies which, in the words of one expert, were intended to give “added significance to attaining citizenship [by] providing an occasion at which the applicant, their family and close friends could celebrate a life-defining moment” (Rimmer, 2007). Organised by local councils, the citizenship ceremonies, if properly conducted, can provide the first, symbolic step for naturalised citizens to participate in public life at local level. The decision in 2002 to introduce citizenship education as a compulsory subject within the national curriculum also appears to emphasise the value of citizenship as a tool for integration. By covering issues of identity and diversity alongside the workings of government, elections and the rule of law, citizenship education, if properly implemented, is designed to empower minority ethnic school children while raising awareness among all students of the rich diversity of British society.

Even the new ‘Borders, Citizenship and Immigration Bill’, which in most respects drives British policy and discourse closer to the “reward” model, refers to citizenship in a number of places as an important tool for integration. Indeed, one of the Bill’s more controversial proposals – to delay access to benefits and council housing for immigrants until they have completed their probationary period – is justified by the government in terms of providing more “incentives” for people to take up citizenship “so that they can become fully integrated into our society”. This positive message about the role of citizenship in the integration process

does not fit easily with the main thrust of the Bill, which aims to increase the number of hoops that immigrants should jump through in order to become full British citizens.

Since 2002, therefore, the initiatives taken in relation to citizenship appear to be following two competing impulses. On the one hand, the government is using the language of “citizenship as a tool” for integration: the measures, we are told, are not intended to exclude immigrants from participating in the country’s economic, social, cultural and political life, but rather to provide more incentives for immigrants to progress to British citizenship. On the other hand, by making competence in the dominant language, knowledge of the “British way of life” and “active citizenship” a pre-condition for obtaining citizenship, the new measures seek to ensure that immigrants have achieved a considerable degree of integration before they are awarded citizenship.

Regardless of these conflicting policies, the tightening of Britain’s naturalisation rules indicates that there is, at minimum, a temptation among British policymakers to opt for a conception of citizenship as a reward. If this is the route that British policymakers end up pursuing they will be following a trend that is visible in several other European countries (Odmalm, 2007). The Netherlands, which was a front-runner in introducing “citizenship trajectory” schemes in the mid-1990s, has recently toughened the content of these schemes considerably. Foreign nationals who wish to re-unite with a spouse in the Netherlands now have to pass a citizenship exam (including a Dutch language test) in their countries of origin. Belgium and Germany have recently introduced their own “integration courses” modelled explicitly on the Dutch example (Jacobs & Rea, 2007). These changes have led Joppke and Morawska (2003) to talk about “a renewed emphasis on assimilation” across Europe as a whole. In view of these tendencies, the following section will analyse the case of one country, Estonia, which for many years advanced a citizenship policy based purely on the idea of “rewarding” immigrants for becoming proficient in the Estonian language - an approach that, I argue, not only failed to reach its proclaimed objectives but also had negative long-term consequences for inter-ethnic relations.

### The value of international comparison

It was Brubaker (1992) who first alerted us to the difficulties of making cross-national comparisons in the field of citizenship, pointing out that citizenship policy is a reflection of deep-rooted historical national traditions which vary fundamentally from state to state. Comparisons between “western” and “eastern” European citizenship policies are likely to meet with even more resistance: the sceptic would argue that citizenship problems in Eastern Europe are often the result of large-scale violent transformations, resulting in border changes or mass involuntary population transfers which left large numbers of individuals stateless or constituting “national minorities” within newly-configured states. This is certainly the case in Estonia, which acquired a large population of ethnic Russians when it proclaimed independence from the Soviet Union in 1991. The sudden and forcible manner in which ethnic Russians in Estonia – and other ethnic groups elsewhere in the former Soviet bloc – became minorities is widely considered to render more legitimate their claims for recognition and assistance in preserving their distinct cultures. In contrast, citizenship problems in Western Europe are typically associated with individuals who have knowingly and voluntarily moved across borders, and who can therefore be held more responsible (the argument goes) for making the necessary adjustments.

9. To date, the convention on nationality has obtained 18 ratifications from Council of Europe Member States, and 10 additional signatures that await ratification from national parliaments. The United Kingdom is so far not a party to the convention.
10. Both the convention on nationality and the commission's communications are worded in the form of recommendations, rather than binding instructions on the naturalisation criteria that states should apply.

This chapter does not deny the different national historical trajectories that have shaped the citizenship policies of each European country. Indeed, these differences explain why, in contrast to other aspects of minority policy, including access by persons belonging to minorities to education in their mother tongue, efforts to reach common European standards in relation to citizenship criteria have progressed slowly and with difficulty. Nevertheless, in the 1990s, as migration flows into Europe increased and as migrants began settling permanently in their "host" societies, European governments began to acknowledge the benefits of developing more coordinated approaches to certain aspects of their citizenship policies. Slowly but surely, a series of European standards on immigrant naturalisation began to develop. In 1997, the Council of Europe took an important step in this direction by opening for signature a new European convention on nationality. The convention did not remove the right of states to regulate their own citizenship policies. Nevertheless, it broke new legal ground by proclaiming it a duty for states to facilitate naturalisation to immigrants living permanently within their borders.<sup>9</sup>

The European Union has also taken a series of cautious steps in the direction of establishing a pan-European approach to citizenship. In a number of communications adopted in recent years, the Commission has promoted the idea of "active citizenship" and joined the Council of Europe in calling on states to facilitate access to citizenship for second and third generation immigrants (Commission communication, 2003 and 2005). It should be noted that the meaning of "active citizenship" promoted by the European Commission is quite different to the way the notion is used in the British government's green paper. Whereas in the latter "active citizenship" is a requirement for immigrants to progress from "probationary" to "full" citizenship, the European Commission coined the term to encourage EU Member States that have restrictive citizenship policies to promote integration by extending political rights, among other entitlements, to third country long-term residents.

However weak in substance and in "bite",<sup>10</sup> these nascent European standards in the field of citizenship indicate that, whatever the historical trajectories of each European state's citizenship policies, and whatever variations exist in the position of different minority groups, all states ought to pursue the same goal in laying down their citizenship criteria: to provide immigrants who enter and wish to settle in a new state with a sense of belonging and a stake in their new society. Some states will pursue this goal by making it difficult for immigrants to acquire citizenship, on the basis that only those immigrants that have acquired proficiency in the dominant language and culture can be trusted to "belong". Other states will endeavour to create a sense of belonging to the state among immigrant groups by issuing citizenship relatively quickly and encouraging the development of a sense of loyalty through participation. In all cases the desired outcome is the same: to create citizens out of immigrants who are able and eager to participate as equals in the society they live in. In view of this essential similarity, it is easy to see the benefits that can be obtained from engaging in cross-national comparison in this field.

### Drawing lessons from Estonia

In February 1992, less than six months after the proclamation of Estonian independence and the dissolution of the Soviet Union, Estonia adopted a resolution on citizenship that denied automatic citizenship to any person living in Estonia who had not been an Estonian citizen (or a descendant of an Estonian citizen) prior to 1940, when the territory of Estonia

was brought under Soviet control. The vast majority of Estonia's Russian population, who had either been born in or had moved to Estonia in the Soviet era, were transformed overnight into aliens. Estonian policy-makers denied charges of discrimination by appealing to the principle of "legal continuity": the aim of the resolution, they argued, was to reconstruct the citizenry of pre-war Estonia, the existence of which had been "illegally terminated" by the Soviet "annexation" of 1940. Anyone who entered Estonia in the Soviet period was therefore an immigrant and should apply for naturalisation accordingly. However, by imposing Estonian language requirements on the process of naturalisation, the new legislation denied Estonian Russians, whose knowledge of Estonian was minimal, the chance to become citizens for many years to come.

This situation was compounded by the scarcity of opportunities during the 1990s for Estonian Russians to learn the Estonian language. State-funded language courses were rare and a combination of economic hardship, residential segregation and lack of motivation meant that few Russians in Estonia were able or willing to devote the necessary time and resources to improving their knowledge of Estonian. In 1995, a new citizenship law was adopted in Estonia that introduced even stricter naturalisation criteria, including a longer residence requirement, a more demanding language test, and a new examination on the constitution. Not surprisingly, throughout the 1990s, the rate of naturalisation remained very low: if in 1992 the number of persons with "undetermined citizenship" was over 300,000, in the year 2000 there were still more than 175,000 persons with this status.

Estonia's restrictive approach to citizenship during the 1990s was reflected in the first Estonian state integration programme, adopted in March 2000. This programme gave only negligible attention to the role that the acquisition of citizenship could play in the integration process. While the programme identified the "reduction of the number of persons without Estonian citizenship" as one of its key aims, alongside the "formation of a population loyal to the Estonian state" (Estonian government, 2000), the activities outlined in the programme with a view to achieving this aim focused entirely on identifying the necessary resources (financial, technical, human) needed to help non-citizens learn the Estonian language. This persistent connection between citizenship and language acquisition indicates that Estonian policymakers conceived of citizenship purely as a reward to be handed to those non-citizens who "completed" the integration process, understood in terms of acquiring proficiency in Estonian.

From 2000 onwards, these activities were carried out in earnest by the government of Estonia, which invested considerable amounts of funding in the development of Estonian language textbooks, language courses and in training Estonian language teachers. The effectiveness of these policies, however, remains so far unclear. In 2006, there were still more than 127,000 "stateless" persons in Estonia, just under 10 percent of the country's total population. According to the Estonian government's own mid-term appraisal of the integration programme, the average Estonian-language ability of Estonian Russians has not improved significantly (we are told that approximately 60 percent of adult Estonian Russians have less than average proficiency). Moreover, those who have acquired citizenship through naturalisation (mostly Estonian Russian youth) do not seem to be participating actively in Estonian political life, as there are only six Estonian Russians in the Estonian parliament and none at all in the government (European Union, 2005). These numbers suggest that Estonia's approach to integration—based on encouraging Russians to become proficient in Estonian and offering citizenship as a "reward" for their efforts—has not been successful.<sup>11</sup>

11. See Jurado (2006) for a more comprehensive analysis of Estonian citizenship policy, which also points to evidence that this policy has, in recent years, begun to shift in a more inclusive direction.



## Main findings and policy recommendations

The previous section has reviewed in detail the approach to integration advanced by Estonia, based on the logic of citizenship as a “reward”. Conceptually superior to the British approach in terms of advancing a coherent account of the role of citizenship in integration, the “reward” model of citizenship implemented in Estonia has been shown to be problematic as well. The following is an attempt to summarise the findings that emerge from the preceding analysis in the form of recommendations that may be useful to policymakers not only in Britain but also in other European states:

**1. Governments that seek to foster the integration of multi-ethnic societies should put access to citizenship at the heart of their integration strategies.** The acquisition of citizenship remains the most potent measure of integration for immigrants in a receiving state. Only citizens have access to the full set of political rights that are necessary to participate fully and effectively in a society’s economic, social, cultural and political life. By launching a public discussion on the rights and responsibilities of British citizens, the government’s recent citizenship reforms could, if managed in a spirit of inclusiveness, be beneficial for the integration of society by helping to raise awareness of the importance of citizenship in the eyes of immigrant and non-immigrant communities alike.

**2. When developing strategies for integration, governments should be explicit about the role that they ascribe to citizenship within the integration process.** The role of citizenship can be usefully conceived either as a “tool” facilitating the integration of multi-ethnic societies, or as a “reward” to be handed to immigrants that have successfully “completed” the integration process. The conception of citizenship as a reward presupposes that identity considerations are central to integration and that the receiving society already has a homogeneous set of values that immigrants can “integrate into”. It therefore diagnoses disaffection among individuals or groups as the result of “excessive” cultural diversity. States that subscribe to this view will demand that immigrants pass arduous naturalisation tests to “demonstrate” their degree of integration. The conception of citizenship as a tool presupposes that participation in the life of a society itself helps to shape individual loyalties, not in an exclusive way but by accepting the likelihood of multiple identities. The naturalisation rules of states that subscribe to this model will be modest as according to this view the process of integration only begins when persons of immigrant origin are able to participate as citizens in the life of a society. The British government’s current ‘Borders, Citizenship and Immigration Bill’ draws confusingly from both models, claiming, on the one hand, to be introducing greater incentives for immigrants to progress towards citizenship “so that they can become fully integrated into our society” while, on the other hand, referring to citizenship as a status that immigrants need to “earn” by fulfilling a series of prior “integration requirements”.

**3. Governments should ensure that their chosen approach to citizenship informs all aspects of their integration policies in a coherent manner.** The importance of developing a coherent approach to citizenship and integration cannot be underestimated. The British approach, which has been to avoid any clear conceptualisation of the role of citizenship in the integration process, has been shown to be ineffectual and even counter-productive. By raising expectations among

persons of immigrant origin about access to citizenship and thus the right to participate as equal members of society only to see those expectations dashed, the contradictions in Britain's citizenship policy have contributed to the very feelings of disaffection that today threaten to undermine the cohesion of British society.

**4. Societies characterised by deep social and economic divisions along ethnic lines are often tempted to opt for the “reward” approach to citizenship, believing that policies which prioritise the role of the state language and identity will be more effective at creating cohesion than policies which respect and accommodate cultural differences – but this logic of insecurity is mistaken.** The case of Estonia, where citizenship has been conceived for many years as a reward to be handed to non-citizens that have developed sufficient competence in Estonian and thus proven their commitment to the state, is a case in point. Fearful that Russians living in Estonia would feel more loyalty towards the Russian Federation than the newly independent Estonian state, the Estonian government felt it necessary to ensure that this population acquired proficiency in the Estonian language as “proof” of their commitment. A similar logic of insecurity is arguably influencing British policymakers, especially since the events of 9/11 and Britain's own 7/7 bombings in 2005. It is clear that there are members of certain minority ethnic groups in Britain who feel high levels of disaffection towards the British state. However, the government's response has been to wrongly assume that past policies of “multiculturalism” are responsible for this – even if, as this chapter has shown, these policies were far from multicultural in practice – and therefore to favour a more assimilationist approach, based on emphasising the state language and identity as a “marker” of integration.

**5. In fact, governments that seek to foster cohesion in multi-ethnic societies should opt for the “tool” approach to citizenship, which prioritises the role of equality and participation rather than language and identity in the integration process.** Today, more than 15 years after the “reward” approach to citizenship was initiated in Estonia, a large portion of Estonia's Russian population continues to be “stateless” and those that have acquired citizenship demonstrate high levels of political disaffection. The Estonian example should act as a reminder to policymakers in other European countries that efforts to promote knowledge of the official language and so-called “national values” among immigrants are important but not sufficient for the goal of integration. If what we want is to create a cohesive society with an inclusive culture, then the underlying barriers to the participation of minority ethnic groups in all aspects of economic, social, cultural and political life, including unequal opportunities and discrimination, need to be tackled. Ensuring that immigrants become citizens with equal rights and obligations as rapidly as possible is a necessary pre-condition for achieving this. From this point of view, the introduction of a new immigration status of “probationary citizen”, lasting from one to three years, in Britain's new ‘Borders, Citizenship and Immigration Bill’, is potentially problematic as it risks creating even further inequalities, not only between immigrant and non-immigrant groups, but also between immigrants with “probationary” and “full” citizenship status.

**6. If language tests for citizenship are considered necessary, they should be made as simple as possible, and language-training opportunities should be made widely available and free of charge.** The controversial proposal, introduced by the government in 2007,

to withdraw the universal system of free English language tuition for immigrants would have undermined efforts to strengthen integration in Britain. According to this proposal, free English language tuition would only have been available to asylum-seekers who had been granted leave to remain in the country; in the case of other migrants, they and their employers would have had to contribute to the cost. Such a model – justified by the government in terms of a continuing rising demand for English language tuition that threatened to become “unsustainable” – risked creating a situation similar to that in Estonia during the 1990s, where a scarcity of state-funded language courses combined with the economic and social exclusion faced by many Russians meant that few of the latter were able to acquire the necessary Estonian language skills to apply successfully for citizenship. The British government’s decision to go back on this proposal and replace it with a new one, where free language training would be channelled to certain key priority groups among migrants (including those expected to stay in the country for the foreseeable future, but also those with the most economic and social need) is therefore a step in the right direction.

**7. Citizenship ceremonies, introduced in England and Wales in 2002, should continue to be supported and encouraged by local and national authorities.** Developing greater appreciation for the value of citizenship, and the political rights that flow from it, among the general public (including persons of immigrant origin) is a pre-condition for the development of a genuinely inclusive and participatory political culture. Citizenship ceremonies are one of the only instruments currently being used for this purpose. Reports suggesting that local authorities are tiring of citizenship ceremonies should therefore be examined and, if substantiated, the factors contributing to this tendency should be identified and remedied.

**8. Governments should introduce further active measures of support in order to remove any structural barriers that make it more difficult for citizens of immigrant origin to participate in the economic, cultural or political life of a state.** Citizenship ceremonies, where they exist, constitute only the first step in a new citizen’s participation in the public life of a receiving society. The government must supplement citizenship ceremonies with other measures, including, where appropriate, specific and time-limited positive action measures, such as producing minority ethnic group party lists in certain areas of the country inhabited predominantly by minority ethnic groups, in order to remedy the current under representation of minority ethnic groups in political life.

**9. Those involved in the instruction of citizenship education in schools should give a more prominent position to information about the ethnic and religious diversity of British society.** One of the key findings of a review on diversity in schools, written by Sir Keith Ajegbo and commissioned by the government in January 2007, was that “issues of identity and diversity are more often than not neglected in the teaching of citizenship education” (Ajegbo, 2007). Teachers who instruct on this subject are said to give more attention to the workings of government and elections than to questions about the diversity of British society, not least because they perceive the latter subject to be “too sensitive” and therefore difficult to teach (Brett, 2008). Such findings are problematic and point to the need for more adequate training to be provided to teachers who instruct on this subject and school inspectors who monitor the teaching.

**10. Citizenship education should be made available to everyone, not only to schoolchildren but also, through public awareness campaigns, to adult members of society of immigrant and non-immigrant origin.**

Public authorities are right to see school education as the key moment in the life of individuals where the values of equality and respect for cultural differences can be fostered. However, when children exit their schools each evening, and indeed when they graduate and enter the life of adulthood, they need to see that the values they are taught at school do not only exist in textbooks but are part of the living and everyday reality.

**11. Governments should be more aware when drawing up new legislation of the existence of European standards in the field of citizenship, which call on states to facilitate naturalisation for persons of immigrant origin living permanently within their borders as an important measure to encourage their sense of belonging in national life.**

Legislative developments taking place at the European level are not separate from domestic politics; indeed, they have important moral and legal implications for persons living in Britain and other European states. The UK should sign the Council of Europe's convention on nationality and should ensure that knowledge of this convention, and of the European Union's communications in the field of citizenship, are better known among the British public through country-wide information campaigns and by introducing information about these European standards in the school curriculum.

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# CITIZENSHIP, DEMOCRACY, AND THE STATE OF IDENTITY: REINTERPRETING THE RELATIONSHIP IN NEW CONTEXTS OF DIVERSITY

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## **Introduction**

In present-day societies, characterised by an increasing diversity of identity, traditional interpretations of the concept of citizenship are insufficient in a democratic perspective. One of the keys to a democratic strengthening of post-modern societies is the need to transform discourses on integration into discourses on the democratic management of diversity. At the same time, it is essential to redefine citizenship and the political community itself as an open space with multiple identities. Human rights, until now interpreted and applied through existing structures in each of the political arenas, can only develop their democratising potential through a re-reading of their content from the point of view of inclusion and diversity. It is necessary, therefore, to offer society new political concepts for coexistence that can take shape in specific measures that allow a more open social reality in which the different identities can participate.

The present communication affects this line of thought. Initially, I will try to frame the reflection in the context of present-day complex societies. Later, I will break down some basic assumptions of the political management of these societies which are now in force in the institutional or social scope. Finally, I will defend the need for a reinterpretation of the idea of citizenship and the concepts connected to it, evaluating the possible strategies for reaching this goal.

## **Reinterpreting citizenship with respect to the State of identity**

In a recent work, I defended the need to reinterpret four fundamental concepts of our current legal-political systems in the face of the challenge of diversity (Ruiz Vieytez, 2008). Citizenship is in fact one of the concepts alluded to. The proposal was formulated from a dual perspective. On the one hand, faced with the immigration process that our society has undergone in recent decades, an inclusive adjectival use of citizenship was proposed, which would link this to the factual element of residence. On the other hand, contrasted with the traditional diversity motivated by the existence of linguistic, religious, cultural, ethnic, national or identity minorities, which is now complicated by the impact



of migratory flows and globalisation, I propose a plural, adjectival use of citizenship, which forces a new interpretation of fundamental rights as recognised and applied in a specific arrangement.

Thus, from a situation of practical synonymy between nationality and citizenship, as is now in force, I propose a reformulation of the key idea of citizenship to turn it into an inclusive and plural (or multicultural) citizenship, which would imply a substantial modification of the basic norms of coexistence in contemporary societies.

Indeed, in our political culture the concepts of nationality and citizenship agree substantially because the status of citizen is acquired when a capacity for integration to a certain national identity is demonstrated. Foreigners are exactly non-nationals, people who do not belong to our identity space of reference, and who by definition are there provisionally. If the length of their stay is extended over time, the legal option is the naturalisation of non-citizens, which takes place through the integration of culture and identity (assimilation). The State does not question its basic elements of identity and there is a closed loop between belonging (citizenship) and identity (nationality), which I have called a State of identity (Ruiz Vieytez, 2006:477).

The historical logic of the consolidation of European states has been based on the idea of a national or culturally homogenous society. According to this approach, within each state there is a society that needs a permanent process of homogenisation, both with regard to its original components as to those who immigrate later. The State of identity therefore consists of a closed political system as regards property and identity. Belonging to it is expressed in the legal bond of nationality, the design of which is realised by virtue of the identity elements that characterise the majority or dominant group (knowledge of the majority language, oath of loyalty, knowledge of the country and its culture, continuous legal residence, etc). With respect to identity, the State expresses its adhesion to a specific scope of identity, differentiated from those of other societies through the official status of linguistic, cultural or symbolic elements (De Lucas, 2008:67).

Nevertheless, the present-day international reality is causing this legal-political construction, which worked with great effectiveness for the previous two centuries, to become obsolete. The process of globalisation and the increasing movements of population make it ever more difficult to legitimate closed spaces based on a specific dominant identity. It will be more difficult in the immediate future for identities directly related to political communities to exist, because the composition of these communities is developing, and because these identities are interrelating more rapidly, giving rise to numerous complex identities. The separation between political spaces as creators of identity tends to be weakened in today's societies and, particularly, within the framework of European integration.

However, it is important to stress that multiculturalism is not an exclusively contemporary phenomenon, and that diversity was always present in the history of European societies. The construction of the Nation-States has marked the exclusion of numerous identities in this process, at the cost of a high degree of diversity. At the same time, the States have until now been very effective agents in the cultural and identity homogenisation of their respective societies. The immigration process that Europe has undergone since the post-war period did not create multiculturalism, but instead

emphasised this pre-existing plural reality (De Lucas, 2005:22). For this reason, immigration constitutes in this field not only a challenge to the traditional model of the Nation-State, it also implies a challenge for political perceptions of traditional minority groups (Kymlicka 2003:321).

As Zapata-Barrero points out, multiculturalism is neither a problem nor an ideal, but simply a reality to be managed (Zapata-Barrero, 2004:10). Our aspiration is to find formulas and proposals for the management of this phenomenon that are at once democratic and compatible with what we term human rights.

However, when I speak of multiculturalism, I prefer to use the term *diversity* because in my opinion, unlike the former term, it does not lead to confusion with regard to its meaning. Diversity is more easily understood as a factual reality, not as a normative proposal (as multiculturalism would be) nor as a methodology (such as intercultural education) nor as an ideal (the multicultural or intercultural society). Simply, we find ourselves in diverse societies and we are forced to create norms for coexistence within and for these societies.

Zapata-Barrero specifies five vectors or axes that provoke or reinforce present multiculturalism. According to this classification, on the one hand we can discern the plurality of cultural identities, associated with different styles or forms of life. In second place, we are faced with multiculturalism, caused by the phenomenon of immigration. A third axis is that of the national identities of groups that demand the status of nations even though they do not have their own State. In fourth place, he alludes to multiculturalism caused by the process of European construction. And finally, in a fifth section, he includes as a motor of multiculturalism, globalisation and the extension of what we could call "cloned cultures" (Zapata-Barrero, 2004:82 - 86).

Recognising that each one of the vectors noted has its own specificity, it is important to note that they do not all matter to the same extent with regard to defining our proposal. When I speak of democratic diversity and its management, I am above all thinking about the realities anticipated in the first three axes. The construction of the European Union remains the creation of a new political arena that will have to work out its own democratic management of diversity with respect to the aforementioned axes of multiculturalism, though it is true that this supranational management brings about some specificities of operation (Ruiz Vieytez, 2006:440). As for globalisation, I have my doubts that it constitutes an axis in itself, but rather appears as a process that is horizontal to the initial vectors which, on the one hand, complicates the subject of the cultural identities and life styles (the so-called cloned culture could be considered as one more cultural identity which not everyone is going to share simultaneously nor in the same way), and on the other hand facilitates movements of population and, consequently, processes of immigration.

In any case, the result is no other than diversity. Diversity is understood here as being the key to collective identity with a projection into the public space, and different from the keys of identity of social or economic order. That is to say, here we are dealing with everything that might surround the indefinable concept of culture, and which are fundamentally linked with languages (and alphabets), religions (and cults), certain ethnic differences, certain existential elements (clothes, food, traditions, festivals, social celebrations, art) and national, sub-national or quasi-national collective identities.

My reflection starts from the awareness that a real framework of human rights cannot be constructed without incorporating the identities of people and groups, especially if these are minorities in their respective political scopes. I consider the distinctive elements of collective identities (religion, language, culture...) to be basic factors for the development of the personality of all human beings. These do not only constitute real factors of personal integration, but also symbolic referents of extreme importance. For this reason, the effective presence of these elements in the public space has an extraordinary importance for the individuals that share them (irrespective of whether they share few or many). Hence the importance of cultural factors in the design of a complete framework of human rights and, consequently, citizenship<sup>1</sup>.

1. As indicated in the UNESCO Universal Declaration on Cultural Diversity (approved by its General Conference on 3 November 2001), *"the defence of cultural diversity is an ethical imperative, inseparable from respect for human dignity. It implies a commitment to human rights and fundamental freedoms, in particular the rights of persons belonging to minorities and those of indigenous peoples. No one may invoke cultural diversity to infringe upon human rights guaranteed by international law, nor to limit their scope"* (article 4 of the Declaration).
2. Recommendation 1500 (2001) of the Parliamentary Assembly of the Council of Europe, *"Participation of the immigrants and foreign residents in the political life of the Member States of the Council of Europe,"* 26 January 2001, paragraph 4.
3. For example, Recommendation 1206 (1993) of the Parliamentary Assembly of the Council of Europe, *"Integration of the immigrants and community relations"*, of 4 February 1993, paragraph 7; Recommendation 1500 (2001) of the Parliamentary Assembly of the Council of Europe, *"Participation of the immigrants and foreign residents in the political life of the Member States of the Council of Europe,"* 26 January 2001, paragraph 11.4.b; Recommendation 1625 (2003) of the Parliamentary Assembly of the Council of Europe, *"Policy for the integration of immigrants in the Member States of the Council of Europe,"* 30 September 2003, paragraph 5; Recommendation n° 30 of the Committee for the Elimination of the Racial Discrimination of the United Nations, *"Discrimination against non-citizens"*, 1 October 2004, paragraph 13.

The problem is that the democratic responses to this reality must be translated into a specific normative model. And insofar as internal law remains the heritage of the State as traditionally understood (State of identity) there will be an asymmetry between the interests that are better represented by this, even though it wears a democratic mask, and those of many minority communities (old or new), whose dislocation with respect to the centres of power makes them passive subjects of the law and almost never its creative agents. This asymmetry conditions any legal development that takes place in this area in which the interests of the different groups are frequently opposed or incompatible. The law, as the cultural phenomenon that it is, thus tends to reflect the cultural attitude of the majority (Palermo, 2008:81). If the management of the law continues to be relegated to the scope of the decision of numerical majorities, a democratic reformulation of this conflict will not be possible. Management of diversity today requires that certain political concepts be reviewed, among them that of citizenship, as well as a redefinition of the ways of production of the law. Thus, in our opinion, the law today has the obligation to respond to the scene of diversity based on the consideration that all identities and cultures, including those of immigrants, are contributors to the State where they are found. The role of the law in this field consists of balancing the democratic criteria, understood as the rule of the majority, through corrective measures that observe the pluralistic dimension (Palermo and Woelk, 2005:8).

But this implies previously adopting new interpretations of traditional political concepts. It is a question of understanding the political community as something belonging equally to all the people who, at a given moment, construct it socially, economically or culturally, regardless of their nationality (Kymlicka 2003:286) or of any collective element identity. This means enlightening a democratic political community based on an open, differentiated and integrating citizenship (De Lucas, 2003:93). Only this can allow us to create a democracy capable of being universally extended, without needing to break with the currently existing political forms. Thus, in coherence, with what I argued previously, the democratic state of a multicultural society must be redefined based on two fundamental ideas: inclusive citizenship and plural (multicultural) citizenship.

With respect to inclusive citizenship, the present democratic legitimisation of the State requires the participation of all residents in the processes of political decision-making in a fair return for their contribution to the prosperity of the country<sup>2</sup>. The documents that demand an extended reconsideration of the bond of citizenship for foreign residents are ever more numerous<sup>3</sup>. Nowadays, the pre-modern categorisation of legal nationality as a factor of exclusion cannot be maintained (Zapata-Barrero, 2004:101-102). Citizenship must be linked exclusively to factual residence (not a mere stay that is temporary by intent), as a unique bond

of political inclusion in the community, with all its rights and obligations (Rubio-Marin, 2002:182).

On the other hand, plural citizenship leads us to the concept of cultural freedom, which implies that citizens have the broadest possible range of cultural options, so that they can develop their individual and collective potentialities through those cultures in which they are integrated or they wished to integrate (UNDP, 2004:13). It is a question of extending the real options of citizens with respect to identity and culture, and translating this extension into the effective content of the rights that are recognised in the legal order. It also implies constantly renegotiating the design of public space between all the identities that at each moment configure a multicultural society.

### Reconstructing non-democratic premises and assumptions to manage diversity

In the political process that took place during modernity, I would say that basically diversity has not been taken on board by political communities, except in cases where the differentiating vectors have been sufficiently strong to force the dominant groups to do so. On the contrary, there has been more success in strategies to create new political spaces to respond to differences of identity, thus reinforcing the ideal of a space for each dominant identity. Indeed, classic political liberalism, socialism or representative democracy have not solved the question of cultural diversity. They have begun with the division of the world into independent, separate political units, which constitute differentiated societies with different needs, within which a certain degree of cohesion seems desirable. In any case, they have started from what is within each of these individually considered societies where public policies are due to be applied, and also the democratic game and respect for the rights of its members. In this way they have legitimised the exclusion of non-members of the community (non-nationals) and the dominance of certain identities over others, through a formal and numerical application of the democratic idea.

The proposal to reinterpret citizenship as inclusive and plural is made within this dominant political culture, the reasoning of which must be considered in order to proceed with its deconstruction. With this aim in mind, I will now proceed to criticise the ideological premises that underlie an exclusive and non-plural vision of citizenship. These positions against diversity could be summarised around four apparently strong arguments that nowadays justify a non-democratic management of diversity, and which I will now subject to critical reconsideration.

#### Our way is right

With this first argument, I start from the assumption that our political, social, and cultural assumptions are correct, right or legitimate. The argument in itself can be considered as quasi-natural and existing in any society. What gives special cause for concern is its opposite, since if we start from the primary assumption that our ethical and political canons are correct, we are only a step away from also thinking that they are the correct ones and that those of other identities are incorrect or less correct than ours. This reasoning can not only be used to justify the adaptation of recently-arrived immigrants to a framework whose correctness is not questioned, but also with respect to other traditional minority groups of the society itself<sup>4</sup>.

4. For example, linguistically, the identification between "speaking in Christian" and speaking the majority or dominant language, against expressing oneself in other minority languages, that have traditionally been excluded from the public space as "patois languages", "foreign languages", "non-Christian languages", etc. There are also examples of these attitudes in relation to other cultural, religious or moral elements.

### **Our way is better**

The success in economic, social and political terms of our dominant societies justifies and serves as a base for this conviction. With regard to immigrant populations, the argument seems almost obvious. If it is they who must come and live with us, it must be that our way is better, that we have been more successful. Our way is, in any case, more attractive, more modern, more effective, more desirable. This leads to us to think that not only is our way better, but that we have done better to arrive at this state of development so desired by others, by those who in one way or another have failed in the same attempt. Equal arguments can be constructed in reference to traditional minorities which do not enjoy the elements of power to the same degree as a dominant group. This argument places us (again) in a superior position, of greater rights, or, in the best case, paternalistic towards those who are different.

### **We were here first**

This argument serves to mark the concept of the foreigner as the stranger, an alien whom we allow in a more or less generous way to join our group. Immigrants would be in the best of cases, guests, potentially allowed to become citizens. In any case, the argument legitimises granting them lesser rights to participate in the political community and the design of the public space. On the other hand, historical or traditional collective legitimacy stands out, since individuals are considered based on the group to which their ancestors belonged. The argument means that there are original owners of the community, original holders and, consequently, relegates the rest to a secondary position. The political community is not, from this perspective, a permanent construction, but there is a past origin that legitimates a series of decisions whose modification, where relevant, requires qualified majorities which the original components did their best to prevent. The legal referent is not association, but the foundation whose patronage is integrated by those who are identified with the initial values of foundation. Peculiarly, the argument is also used with respect to traditional minorities or indigenous peoples who, in spite of being previously in the state territory, did not properly participate in the original pact. The argument does not even consider that there were minority elements of the original community who lost out in the cultural construction that is now imposed on those who arrived later.

### **There are more of us**

This fourth argument is based on the prostitution of the adjective "democratic", the meaning of which is reduced to a mere numerical factor. Numerical superiority within the framework of a legitimate formal democracy is for many (normally for those who comprise that majority) an identity, national or cultural policy that prioritises certain referents over others, because this has been decided by the majority of the population, or because it corresponds with the greater number of citizens. Since the habitual starting point is that cultural uniformity is desirable for greater social integration, effectiveness advises taking as a model in which to integrate oneself, that one which is shared by a greater number of citizens. This conception perverts the utility of human rights, inasmuch as these indeed consist of limits to the numerical rule of the majority. On the other hand, the majority argument serves only within the limited scope implied by the respective political community. Nevertheless,

by definition, a democracy understood as a numerical game does not resolve the questions regarding respect for minorities. A total concept of democracy demands the balanced participation of all the different elements in the construction of the public space and a concept of human rights that guarantees the protection of the elements of dignity of all people, beyond majority decisions.

In addition to these four arguments of notable political influence, there are other convictions which, more than arguments, constitute the assumptions of analyses that are also widely spread. In this case we do not speak so much of positions, but of errors of perspective or appreciation, more or less deliberate, but which in sum facilitate a view that is perverse with regard to an approach that is appropriate for the democratic management of diversity. It is therefore necessary to undertake the work of unmasking (deconstructing) these, before justifying an inclusive and multicultural re-reading of citizenship. Here I will question four political assumptions that form part of the socially dominant discourse.

### **Every society needs common cultural elements for cohesion**

Indeed, European political communities have been constructed based on the assumption that cultural and identity uniformity is desirable. It is presumed that state efficiency implies the need for a common language, common values and a shared feeling of identity. Nothing, in fact, supports this argument and it seems clear that in practical terms the affirmation is not maintained. On the one hand, there are viable and stable states that do not have shared elements of identity. On the other, there are no elements of identity (language, religion, etc.) that are necessarily shared by all the citizens of a state. At present, political management can be carried out on culturally plural societies, without this being a fundamental impediment.

### **The host society constitutes the scope of reference for integration**

European political systems have fundamentally been constructed on the base of the “us-them” dichotomy. This dichotomy is associated with the political arguments that we have previously criticized, but it is actually not based on a verifiable reality. The supposed host society or the majority do not share all the elements of identity and, in terms of values, they always presents remarkable internal differences. The host society is still a euphemism with which to legitimise exclusion. In fact, of the two parts of the dichotomy, “they” exist, but there is no “we” that can be claimed as a united ideological group. Not even the most elementary of human rights are unequivocally interpreted in a majority or dominant group, for which reason the same group cannot be used as the scope of reference for a unidirectional integration (Spiliopoulou, 2008:45).

### **Diversity is a problem for the management of a society**

As I have noted above, European societies have generally been constructed from the assumption that what is desirable is to share identity elements. This being the case, it is no wonder that real diversity is viewed as problematic, since it moves away from this ideal. This being the case, social cohesion would be that much more difficult to obtain, the greater the cultural diversity of a society. Nevertheless, there are several

examples of developed countries that present greater stability and social cohesion in spite of recognising diverse societies. Conversely, some of the symptoms of greater lack of cohesion have been shown in societies that have managed diversity by seeking its elimination from public space. Other basically uniform societies cannot presume to offer better social or economic results than countries with a long tradition of diversity. There is no proof of the above affirmation; on the contrary, the greater versatility shown by a diverse society habitually allows it (except for situations of extreme conflict) a better and faster adaptability to changing surroundings, both political and socio-economic.

### **The democratic management of diversity involves considerable public outlay**

From this perspective, the non-management of diversity would involve a considerable saving that could release resources for other scopes of public policies. In fact, an active policy of assimilation could be understood as an investment intended to avoid future costs. Nevertheless, cultural reality is not easily transformable from the public apparatus, and nowadays it seems much more profitable to manage it, taking advantage of its potentialities. Thus, the additional expenses derived from multilingual education are without doubt compensated by obtaining greater linguistic skills for students and greater professional competitiveness in the future, which will mean not only the avoidance of costs due to educational repetition and failure, but a potential for the country with respect to future economic scenarios. In these terms, the promotion and protection of cultural freedom cannot be understood as an added cost, but as a real investment in the future to guarantee greater levels of competitiveness (UNDP, 2004).

### **Towards a new social and political paradigm**

Criticism of the previous arguments and assumptions leads us to defend a new paradigm for the relationship between policy and cultural elements of identity. In the path of post-modernity, uniformity ceases to be natural in the public space of our political communities. Diversity is now the substrate on which models must be constructed that guarantee participation in equality and freedom of all people. The new paradigm is that of permanent and increasing multiculturality. If in modernity the success of the Nation-State as a tool of assimilation and to secure greater levels of national homogeneity has been undeniable, nowadays this fact is surpassed by the speed of population movements, by the rise of the local and minority identities, and by the new facilities of conservation of different styles and cultures. At the same time, since identities cannot be destroyed but simply and permanently transformed, we find that political spaces are more permeable and less homogenous at present, undergoing a process of territorial and personal diversification and identities overlapping that excessively complicates any description of the same.

Faced with this new panorama, the classic Nation-State ceases to be a democratic answer. The State must gradually become multi-identity, flexible, and adaptable to the diverse identities that coexist and are manifest in it. The public space must be open to diverse identities and the public apparatus prepared to support specifically those that most need it (Makkonen, 2004:175). At the same time, that public apparatus needs fewer and fewer specific elements with which to identify itself. It does not

need, of course, a religion, nor specific cultural expressions, and it will have less and less need for one or several languages for communication with those whom it governs. Thus, the paradigm has changed, and it becomes necessary to approach, as soon as possible, a serious reform of public structures based on diversity and the new correlations of identities (themselves changeable) that exist in each society.

Within the framework of post-identity States we must reinterpret democracy and rights, not in the context of culturally-closed societies, but creating open circuits of power for the different groups. It is also necessary to review the concept of official status applied to elements of collective identity (languages or religions) and to adopt diversity with all its consequences and with the only limit of respect for basic human rights. We must recognise that there should not be dominant identities or identities in possession of public institutions, although the social reality of a given environment is clear; that it is not necessary to seek cohesion through uniformity and that it is not necessary that political power be linked exclusively to the territory (Spiliopoulou, 2008:51).

Of course, existing realities, the configuring of majorities, historical and geographic elements, will be also factors to consider. The post-(multi)-identity state does not seek the elimination of culture or identity elements of policy, either from the institutions or from the public space. On the contrary, it aims to stimulate the development of the greatest possible number of identities. From the assumption that state neutrality is impossible with respect to identity, we seek to promote the presence in the public space of the greatest level of diversity that is compatible with a harmonious coexistence. Social cohesion will not be obtained through the impossible task of sharing certain elements of identity, nor through ideological support for the constitution of a country, but by means of the cultural freedom of the members of that society, who will create the egalitarian and free links that they can construct once the public apparatus accepts and promotes their personal and collective development.

Definitively, post-modernising political structures also means post-modernising the notion of citizenship in a dual perspective. On the one hand, describing it as inclusive (with respect to immigration/foreigners) to incorporate into the political game all those residents who have the will to participate in the public space. On the other, by considering it as plural citizenship (with respect to minorities/diversity), which allows the interaction of multiple identities in the public space, its recognition and promotion by the state apparatus itself. In this way we seek to widen the filter of belonging, on the one hand, and to extend the filter of participation, on the other. The crisis of the present national state can only be surpassed in this scope by means of an extension of these filters and a mutation of the state into a much more open and flexible organisation than what it has been during modernity (Palermo, 2008:93).

### **Strategies for the transformation of citizenship**

The practical consequence of this re-reading of the concept of citizenship is not the formulation or recognition of specific rights for minorities (old or new), but the strengthening of universally recognised human rights. Until now, human rights have been interpreted from and for majorities. Nevertheless, an assumption of the inclusive and plural double reading of inclusive citizenship imposes a new interpretation of rights from the perspective of diversity and minority, which takes shape in novel practical measures.



5. As is the case of article 27 of the Canadian Charter of Rights and Freedoms of 1982.
6. For example, questionable, at least, is the reasoning of the European Court of Human Rights with respect to the compatibility of political Islam and democratic values in its judgement on the case of the Well-being Party (*Refah Partisi*) and others versus Turkey; judgement of 31 July 2001; paragraph 71. See Scheinin, 2004:227 - 230.
7. European Court of Human rights: case *Thlimmenos versus Greece*; Judgement of 6 April 2000.

Inclusive citizenship makes full participants of the political community of those who in fact reside in it, without national restrictions. With respect to plural (multicultural) citizenship, it affects the fact that each person can exert their human rights through their own identity (and not in spite of it), irrespective of whether they are in a majority or a minority. The modulations in the exercising of these rights will derive from objective circumstances (size, geographic dispersion, technical conditions...), but not by the imposition of a numerical majority. In addition, by virtue of the principle of material equality, the State is not only forced to interpret human rights from the identity diversity of its population, but it must, as a priority, take care of precisely those collective realities that are in a situation of greater weakness.

The difficulty of applying these political principles lies partly in the rigidity of a legal system which by design is at once individualistic and majority-based. The dominant liberal perspective has not been able to overcome the border divisions while determining human rights in binding legal frameworks. Thus, there has always been a debate with respect to specific rights when it was a case of protecting the rights of those who do not belong to the group of the dominant majority in our modern societies (women, children, the disabled, minorities, immigrants, etc.). Nevertheless, the proposal of new rights or specific rights can be an erroneous path, both in concept and, especially, in strategy. The content of the category *human rights* ought not to be broadened without limit, at the risk of losing its transforming potential. What is urgent is to demand the interpretations that can be compatible with the idea of inclusive and plural citizenship. The key is, therefore, not in the extent of rights, but in their reinterpretation. It is not a matter of recognising (always belatedly and secondarily) special rights for foreigners or minorities, but of interpreting the same human rights that correspond to as a matter of plurality and inclusiveness (Makkonen, 2004:173). This all happens in order to reformulate the principle of non-discrimination and the right to equality, where necessary incorporating express clauses that force a multicultural interpretation of rights<sup>5</sup>.

We must also, however, consider that this requires a revision of the official interpreters of rights (legislators, courts, etc.), whose extraction normally takes place between the dominant or majority sectors of the population, thus reproducing the exclusive and homogenising dynamics in the interpretation of what constitutes the content of each right (the same occurs at international or European level, through the units of control or international courts which are responsible for interpreting rights or their application to different countries, whether or not this is binding in nature)<sup>6</sup>. The objective of this is to define new rights to protect diversity, but this strategy merely delocalises the struggle for rights, which is nothing but a multicultural re-reading of universally recognised rights.

Indeed, the principle of equality entails not only the obligation of dealing in an equivalent way with those who are equal or in equal situations, but also guaranteeing the differentiated treatment of those who are different (diversity) or who are in substantially different situations (minority). Thus, the right to non-discrimination with respect to human rights is also violated when states, without reasonable and objective justification, do not deal differently with people whose situations are significantly different<sup>7</sup>. Only thus can the principle of equality that inspires contemporary legal order really be satisfied (Henrard, 2005:16).

States cannot impose an identity-based reading of human rights which does not understand the plural and diverse reality of their society.

Minorities participate in sociological reality that orients their application. The question is not so much the ownership of these rights by persons belonging to minorities, but their conditions of application. That is to say, the question is not discussing whether there exists, for example, a human right of a member of a minority to communicate with the judicial authorities in their own language, since such a faculty would derive from their right to equality in relation to the freedom of expression and the right to participation in public life. The question is to discern what the conditions are in which this right can become effective and what degree of obligation affects the State for its fulfilment. In this matter, the determining factors will be, for example, the number of people who can use the minority language at issue, its level of territorial concentration, its percentage in relation to the majority group and other analogous circumstances. What cannot be assumed in terms of multicultural democracy is the negation of the right, when in fact this does not differ very substantially from the same right in favour of speakers of the majority language. The difference of circumstances will modulate its exercise, but not its possession nor the generic nature of the right.

Only in this way can we establish a model of cultural justice, in which immigrants and other minorities can be integrated and really participate in the reformed political community. The problem is that until now human rights have been interpreted in the scope of closed political and identity spaces. The interpretation of rights from majority and uniformity implies that official status is the category of closure that contaminates the essential content of human rights, especially those that need public participation. This perspective cannot be assumed for a state that is constructed from inclusion and diversity.

In fact, the necessary step to put these proposals into practice is not revolutionary in normative terms. The same international treaties in force can be reinterpreted based on these premises (Scheinin, 2004:232). Universal rights must be able to be exerted through any identity and the State is forced to guarantee this fulfilment from plurality. In recent decades some isolated advances have taken place in this sense. In some cases, judicial organs begin to limit state discretion to delimit rights based on identity<sup>8</sup>. More clearly, in certain international tools such as the FCNM (Framework Convention for the protection of National Minorities) or the ECHRML (European Charter for Regional and Minority Languages) tackles this new interpretation in an incipient way, inasmuch as the rights of minorities or obligations of the states to them are shaped normatively with respect to the concurrence of certain factual situations: a substantial and sufficient number of people pertaining to the minority, an effective demand for the implied right, existence of means and relative geographic concentration. Although it is not specifically recognised, what these instruments allow us to affirm is that groups or their members are holders of the respective rights, which become indispensable from the concurrence of circumstances that already prevent their from being denied. From the application of the FCNM and the ECHRML we know that the interpretation of the rights of minorities does not depend on the decisions of states, but the latter are forced to a conditional application by existing reality. There exists, therefore, a scope of objectivity that serves to delimit state obligations and that allow us to speak of pre-existing rights that states cannot deny.

Putting these premises into practice means that instead of specifying new rights for citizens with different cultural characteristics, we must insist on the reinterpretation and extension of the cultural elements of recognised general civil and social rights. This implies, among other

8. For example, European Court of Human rights: case *Manoussakis versus Greece*, Application 18748/91, judgement of 26 September 1996; case *Buscarini against San Marino*, Application 24645/94, judgement of 18 February 1999; case *Cyprus against Turkey*, Application 25781/94, judgement of 10 May 2001, paragraphs 275-280; case *Metropolitan Church of Bessarabia against Moldova*, Application 45701/99, judgement of 13 December 2001. United Nations Human Rights Committee: subject *Ballantyne, Davidson and McIntyre against Canada* (communications n° 359/1989 and 385/1989), opinion of 31 March 1993, United Nations document CCPR/C/D/359/1989; subject *Diergaardt and others against Namibia* (communication n° 760/1997), opinion of 25 July 2000, CCPR/C/69/D/760/1997; subject *Ignatane against Latvia* (communication n° 884/1999), opinion of 25 July 2000, CCPR/C/72/D/884/1999.

9. United Nations Human Rights Committee: *Waldman versus Canada* (communication no. 694/1996), opinion of 5 November 1999, document of United Nations CCPR/C/67/694/1996.

10. Already guaranteed in the general instruments on human rights and, in particular, by article 3 of the FCNM.

things, an interpretation of the freedom of expression and the right to education that includes their exercising through other languages present in society, in terms that are reasonable, and based on socio-linguistic or historical data. In the same way, it demands a broad interpretation of the freedom of religion, which makes possible the development of the diverse beliefs of citizens in the public space, whenever they do not prevent the exercise of the same ideological freedom for other citizens. The same must be said of a good number of activities of promotion or access to public functions, to which we must apply techniques of affirmative action regarding minority or non-dominant cultural elements. Definitively, it is the right to equality and non-discrimination, in accordance with any of the civil rights, which is vital to apply to cultural parameters like language, religion or any other collective element of identity. Thus, all the powers of the state should treat without discrimination the cultural and identity situation of new citizens or citizens belonging to minorities, reinterpreting extensively ideas or concepts like working holidays, educational curricula, languages of teaching, official languages, religious observance in public, the multilingual or multi-religious character of public acts, educational or cultural finance, religious or spiritual attention in public schools, requirements of security, sanitary requirements, etc. It is really a case of incorporating in an express or tacit way a multicultural clause in the Canadian style (Ruiz Vieytez, 2007), which forces an interpretation of constitutional rights with respect to the multicultural reality of society, which obviously will also demand long processes of education, training, sensitisation and redesigning of institutional spaces that such a project requires.

This last aspect is of great relevance, if we consider that an inclusive and multicultural interpretation of human rights can only be carried out by modifying positive legal norms (for the first case) and reinterpreting existing ones (for the second) on the part of the competent legislative or judicial institutions (De Lucas, 2008:66). In this sense, it becomes decisive to create not only a formal normative apparatus as regards diversity, but also and mainly, forming and multiplying “multicultural minds” (Zapata-Barrero, 2004:241).

The application of the principle of non-discrimination from a perspective of plural citizenship demands a reflection on the arrangements that have served to organise the traditional diversities of society and study of their possible extension to new citizens. It is not permissible that the agreements that at one time served to fit certain minorities into the constitutional system should become obstacles or exclusive formulas for new groups (Spilipoulou, 2008:52)<sup>9</sup>. On the other hand, we must take care that this opening based on non-discrimination does not denature the framework of protection created at the time or seek complementary elements to ensure it.

Finally, plural citizenship means recognising and interpreting these rights from the consideration that they are individual rights. In order to avoid what Kymlicka considers internal restrictions of the group on its own members (Kymlicka, 1995:34 - 44), the principle of free adhesion to majorities or minorities must be safeguarded, so that, on the one hand, the free use of the rights through the chosen identity is guaranteed, and on the other, this individualisation of rights is not constituted as a mechanism of assimilation, but allows a free transit from minorities to majorities (voluntary integration)<sup>10</sup>, such as from the majority to the minorities (voluntary differentiation).

## Conclusion

The application of Democracy to 21st-century societies and the correlative extension of human rights to all people who comprise them at a given moment, force a re-reading of basic political concepts, citizenship among them. The main challenges pending in this sense relate to two different though related orders of factors. On the one hand, that of the exclusion of non-nationals from full belonging to the political community, although their life project may coexist temporarily or permanently with that of the society in which they reside and to whose development they contribute. On the other hand, exclusion, marginalisation or indifference to the non-majority or dominant cultural (linguistic, religious, national) identities, which also include (but not exclusively) numerous identities imported by non-nationals.

As regards contemporary democracy, it is not possible to continue to exclude both groups from total enjoyment of rights with universal vocation. The state apparatus cannot apply them with a reductionist mentality that filters both the possession and the exercising of rights through national and majority filters. On the contrary, regarding this State of identity to which we have accustomed ourselves, and in a variable and increasingly multicultural scene, it becomes necessary to incorporate inclusiveness and plurality in the reading of rights, in order to reach truly democratic standards. Inclusive citizenship based on the factual element of residence and plural (or multi-identity) citizenship based on the recognition of rights through the identity of each person or group, both constitute fundamental vectors in the new theorising of this concept. Both reformulations are feasible without needing substantial changes in the legal orderings, but through a hermeneutic work that does, in fact, demand new mentalities. It is, in fact, a case of leaving behind the State of identity, organised like a political closed circuit with respect to belonging and to identity, in order to construct political communities that include authentic open circuits of power in relation to these vital factors of human development.

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The emerging area of European racial anti-discrimination policy has forced scholars to reconsider what the relationships between migration, immigration, citizenship and diversity are in the evolving political and social landscape of Europe. Is racial anti-discrimination policy really about immigration and integration, or is it more related to other European anti-discrimination policies and generally distinct from the study of migration and citizenship? Taking the state of implementation of the European race directive (EC/2000/43) which requires Member States to introduce comprehensive racial anti-discrimination law and to establish a public body charged with aiding victims of discrimination (among other elements) as a starting point, I argue that citizenship and racial equality are indeed linked, even if the hidden connections between these two areas need to be elucidated more clearly.

In this paper, I consider the implementation of the race directive in Austria, Belgium, France and Germany in depth and include data from country-expert reports commissioned by the EU on the eleven other 'old' EU Member States (EU 15) in order to provide both a rich and wide-ranging snapshot of the European right to racial equality and the significant variation in its implementation in Member States. I argue that states where the political community problematizes racial discrimination are much more likely to implement the European race directive strongly, while those states that do not identify racial discrimination as a problem facing the political community implement weak racial anti-discrimination rights. I then consider the relative open or closed nature of the institution of citizenship in each state and argue that the strong correlation between the degree of "openness" of citizenship and "strength" of racial equality rights suggests that the relationship between citizenship and racial anti-discrimination policy must be considered further. Finally, I propose that the institution of citizenship strongly frames the process of problematization of racial discrimination, and that is why there is such a strong correlation between citizenship and racial anti-discrimination policy. It is this framing effect and the process of problematization, I hypothesize, that forms the hidden connection between the institution of citizenship and racial policymaking in Europe

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## Racial equality rights

In order to evaluate the strength and weakness of racial equality rights I do not focus exclusively on the 'law on the books,' but instead attempt to also capture the 'law in action.' I interrogate and evaluate each member state's transposition and implementation of racial anti-discrimination policy in this way because law, "far from being a uniform code that binds citizens... is better appreciated as a continuously contested terrain of relational power among citizens" (McCann, 1994: 283, citing Scheingold, 1974) that is constituted by its daily mobilization or lack thereof. For this reason, I define strong implementation as including many of the following: transposition of the law in a timely manner (an expression of basic political will) without excluding any key elements (such as the definitions of discrimination); legislation that goes beyond the minimum requirements of the race directive (e.g. allowing NGOs to litigate on behalf of victims); providing anti-discrimination training for judicial/legal personal and/or the public; creating an independent agency with many resources and powers including those of investigation and discovery, mediation, internal dispute resolution/judicial mechanisms, the power to bring claims on behalf of victims in existing courts, and to engage in publicity and awareness-raising campaigns; high levels of cooperation with social partners to guarantee implementation of the law in employment situations; the creation of new powers for government ministers to address racial discrimination; giving significant financial and other types of support to state equality agencies and/or NGOs who work on behalf of victims of discrimination.

I define weak implementation of the directive, conversely, as: a basic or non-compliant transposition of the directive; a severely delayed transposition of the directive (indicating limited political support for anti-discrimination policy); the creation of a weak agency that lacks independence, resources, and powers such as those listed above (e.g. does not publicize, investigate, advocate, mediate, etc...); a lack of government officials whose focus is to address issues of discrimination; and the exclusion of social partners and NGOs from the policy-making and implementation processes.

With these standards for strong and weak implementation in mind it is possible to consider the relative strength or weakness of the right to racial equality across the EU. Austria, Belgium, France and Germany, the countries that I will consider in depth in this paper, have transposed the directive into their own state law and have also set up an independent body that aids victims of racial discrimination. Yet, this superficial similarity between the four states disappears once one considers not only Austria and Germany's lack of political will to transpose the directive, but also the significant weakness of their equality bodies as compared to the Belgian and French agencies. The French and Belgian agencies are well-funded and have strong powers to aid victims of discrimination in their pursuit of justice. In contrast, Austria and Germany's agencies are comparatively weak, poorly-funded and provide very limited support to victims of discrimination. For example, France's agency has the semi-judicial power to demand evidence from employers about discrimination and to participate in judicial proceedings. It also has a budget of 11 million Euros and 66 employees who work on publicizing anti-discrimination law, researching racism, and aiding victims in Paris and in other local offices ([www.halde.fr](http://www.halde.fr)).<sup>1</sup> Belgium's agency, despite its much smaller population, goes even further in both powers and staff. With its extensive staff of 100 and its 6 million euro budget, the agency takes cases to court on behalf of victims and on behalf of society more

1. Please note that most agency statistics are as of 2007, when fullest data was available.

generally (such as their recent victory declaring the Vlaams Blok a racist and illegal political party), mediates disputes, lobbies other government actors, provides training and education and has a number of local offices to reach victims directly (<http://www.diversiteit.be>).

In Austria and Germany, in contrast, the equality agencies have fewer powers and smaller budgets and are significantly constrained by the large number of responsibilities they are supposed to cover without the resources to actually achieve those goals. Germany's agency has a budget of 5.6 million euros and twenty employees located in Berlin who give advice to victims and research and publish reports. The agency, however, has no formal legal powers, although it is granted the responsibility of attempting to mediate complaints of discrimination. In comparison with France, Germany has 20 million more citizens, but its agency has half the budget and one third of the staff of the French agency.

In Austria, the equality agency is even weaker, staffed by just three part-time ombuds who have almost no formal powers. The Austrian budget is limited to some publicity funding and the salaries of the three ombuds. Victims of discrimination may contact the ombuds for counselling and the ombuds may then refer cases to a voluntary committee that can issue non-binding judgments about the case. This provides very limited avenues for victims of discrimination and leaves most victims without any practical aid. As one Austrian NGO commentator remarked, the equality agency is "ridiculous, but on paper it is compliance" (Schinlauer Interview, 2005). In addition to the limited public resources for victims of discrimination German and Austria racial anti-discrimination NGOs are also significantly weaker than their counterparts in Belgium and France.

### **Racism and racial discrimination as social problems**

Why do states such as Germany and Austria have such weak public agencies? Why do they give so few resources and powers to actors who could act as rights mobilizers and rights implementers? Conversely, why have states like Belgium and France moved to actively implement the new right to racial equality? I hypothesize that Austria and Germany have not implemented the right to racial equality strongly because their political community does not perceive everyday experiences of racism and racial discrimination as important social problems. Instead, in these states there is almost no public discourse on everyday racial discrimination—in the public discourse the only racism that exists is racism that fits within a particular interpretation of the Nazi-era: hate speech, Holocaust denial and violent racism. This is what I call the "Nazi-era racism frame" (Gehring, 2007). Racism is extreme in this conception and everyday instances of discrimination do not meet the full standard of "racism" according to this Nazi-era racism frame. In states where there is a public discourse about racial discrimination, in contrast, racial discrimination is seen as a problem within the political community that must be addressed. These states also have more "open" institutions of citizenship which make it possible for the problems of the racialized to emerge as problems within the political community and for the racialized and the majority populations to challenge the Nazi-era racism frame.

The variation in public discourse about, and problematization of, racial discrimination can perhaps be best seen by considering the transposition of the racial equality directive in the four in-depth cases of this study. In both Austria and Germany the governments and the public did not

2. It should be noted that there were also some voices in favour of the law as well, though they tended to come from students and young academics. See for example, Vennemann, Nicole in the German Law Journal No. 3 1 March 2002, and Winkler, Viktor "The Planned German Anti-Discrimination Act: Legal Vandalism? A Response to Karl-Heinz Ladeur" 3 German Law Journal No. 6 1 June 2002.
3. It's interesting to note that this limited notion of racism has led both Austria and Germany to outlaw discrimination based on ethnic heritage/ethnic belonging instead of race. This was done not only to distance themselves from the use of the idea of particular races, but also was pushed for by some activists in both countries who feel like challenging old ideas about "racism" is too difficult.

perceive a 'real' problem with racial discrimination in their societies, and, for this reason, they did not see a strong implementation of the race directive as necessary. In Austria, the government pointed out that the directive was "unnecessary because there were already so many international conventions on this and because there already was a lot of legislation" (Ministry of Labour Interview, 2005). Meanwhile in Germany, opponents of the law from the legal community also argued that it was both unnecessary considering Germany's existing laws against racism, and that it would violate the personal liberty (freedom of contract) of those it sought to punish for discrimination, thus making it unconstitutional. These commentators objected to the European-level origins of the directive and called the law the product of "Jacobean"-like politicians who were foreshadowing future "totalitarianism" (Picker, 2003) with their assault on German civil law, which was termed "legal vandalism" (Ladeur, 2002).<sup>2</sup> Even the woman who was the most active German representative lobbying for the European race directive, Barbara John, who was then the head of the Berlin Senate for Foreigners' Affairs and is known as "Turkish Barbara" for her support of the Turkish community in Berlin, explained that the law would probably not have a major impact because "there is very little discrimination here [in Germany]" (John Interview, 2004). Likewise, a labour court judge remarked that he had heard no cases under the new equality law thus far, and the lay judge for the business community declared that this was not surprising, since there is no problem with racism in Germany. (German Labour Court Interview, 2007). This limited definition of racism, that of the Nazi-era frame, means that in Austria and Germany discrimination is not problematized and there are few resources put forward to solve the non-existent problem.<sup>3</sup>

In France and Belgium, in sharp contrast, everyday racial discrimination is written about widely in the major daily newspapers (while in Austria and Germany there are very few articles), and it is a point of contention in the political discourse. It is, in short, a problem, and a problem that the political community expects its leaders to solve, or at least to address. This pressure can best be seen in the fact that major political leaders address issues of racial discrimination in their speeches to the nation. For example, former French President Chirac appealed to French society to "break[ing] the wall of silence and indifference which surrounds the reality of discrimination today" and called for "an increase in awareness and a forceful reaction" to the discrimination experienced by "young French people of immigrant origin" (BBC, 2003). For Chirac then, the problem is real and needs to be addressed, especially because the victims of discrimination are French. This is why he is setting up "the independent authority whose task is to fight against all forms of discrimination." (BBC, 2003). I propose that the realities of the lives of racialized French have challenged the dominant Nazi-era racism frame in France (or what some scholars of France have called "Hitler-racism", e.g. Bleich, 2002) and have pushed the discussion about racism beyond the Nazi-era frame to debates over everyday discrimination that French citizens face. A similar discussion does not exist in Austria or Germany, precisely because the institution of citizenship has been "closed" to newcomers and, thus, those that face discrimination because they are racialized are almost always outside the legal political community as well as the imagined political community. If they are foreigners, then their problems also remain outside the political community and do not need to be addressed by the governments. Furthermore, their non-existence within the political community also means that they are not given a privileged position from which to challenge the Nazi-era racism frame (as is possible for citizens in France and Belgium), which is an important step towards problematizing everyday racial discrimination.

## Citizenship and racial anti-discrimination policy

In order to understand the demarcations of the political community and how the idea of fellow citizen and outsider are constituted, I will now turn to a discussion of citizenship as more 'open' or more 'closed' and how these variations in the institution of citizenship interact with racial anti-discrimination policy. I will focus primarily on the formal or legal elements of citizenship instead of considering the way non-citizens may or may not receive citizenship-like benefits and may participate in citizen-like ways (for a more sociological analysis on these aspects, see Soysal, 1994; Sassen, 1998). This is because for my analysis, the formal recognition of belonging to the political community and rights of political participation are especially important in framing the racial anti-discrimination policymaking and implementation processes. In fact, the correlation between formal citizenship and the right to racial equality suggests that social citizenship (or post-national membership), unlike traditional formal political citizenship, does not challenge the Nazi-era racism frame and does not create the necessary conditions for strong implementation of racial anti-discrimination law.

4. Campbell is writing about institutions and ideas; the interpretation of how citizenship works in this relationship is not a part of his discussion, it is my own analysis.

Even though I focus on the formal legal requirements for citizenship, I do also consider the taken-for-granted ideas about who belongs within and outside the political community, because together they construct the definition of full political membership in European nation-states; they constitute the institution of citizenship. This institution also frames the ideas and discourses that appear in public and political debates over racial policy making. As Campbell (2004: 93) suggests, taking into account these two different roles for ideas is important because

ideas are institutions in the sense generally intended by organizational institutionalists. However, ideas can also be concepts and theories located in the *foreground* of these debates, where they are explicitly articulated by decision-making elites.

In this way "background ideas" such as taken-for-granted ideas about who belongs within the political community "are often so taken for granted, they tend to constrain change" at the same time that challenges to these old ideas by social realities created by more inclusive citizenship policies can be "foreground ideas" which "are contested and often used to challenge the status quo" and may "facilitate or enable change" (as they have in Belgium and France in this study). Campbell (2004: 93)<sup>4</sup>

Keeping this complex notion of the institution of citizenship in mind, I now turn to Howard's (2005) classification of the citizenship policies of the fifteen 'old' Member States on a spectrum from "liberal" to "restrictive." Howard developed this spectrum by giving states points for being liberal, or what I term "open", in three key areas of citizenship policy: ascription/birth, naturalization, and dual citizenship. The result is the ranking of the 15 states from most liberal (6 out of a possible 6 points) to most restrictive (0 out of 6 points). Howard's findings generally map my own conclusions about the four Member States at the heart of this study and give the additional benefit of including the other 11 Member States for a more wide-ranging analysis. The only country where my more in-depth institutional analysis and Howard's policy-based classification conflict is Germany, where the German institution of citizenship is much more than simply its current policies. Instead, Germany's recent shift towards more liberal citizenship policies have yet to have a major impact on the institution of citizenship, on the taken-

for-granted ideas about being “German” and on the actual make-up of the German population. In short, the impact of these reforms on the institution of citizenship is still developing and German citizenship remains relatively closed, contrary to Howard’s classification of the law on the books. For this reason, I place an asterisk by Howard’s ranking of Germany throughout the charts.

**Figure 1. Howard’s (2005) Categorization of the Citizenship Policies in the 15 Member States (The more points a state has the more liberal the state’s citizenship policies are)**

Liberal	Medium	Restrictive
Belgium (6)	Greece (2)	
Ireland (6)	Italy (2)	Austria (0)
France (6)	Luxembourg (2)	Spain (0)
Netherlands (6)	Finland (3)	Denmark (1)
United Kingdom (6)	Germany (3)*	
	Portugal (4)	
	Sweden (4)	

Howard’s point scale shows how significant the variation among Member States in the area of citizenship truly is, with states such as Austria that have very restrictive citizenship regimes and restrictive everyday understandings of what it means to be “Austrian” juxtaposed with states such as Belgium and France which have extremely open citizenship policies that are further bolstered by national myths which envision the political community as being open to descendants of immigrants. This large amount of variation is mirrored by the equally significant variation among Member States in the implementation of racial anti-discrimination policy. What is most striking, however, is the strong correlation between the degree of openness of the institution of citizenship in a particular state and the strength of the implementation of the right to racial equality in that member state (Figure 2).

Figure 2 lists the states top to bottom, from most open to most closed institutions of citizenship, with Howard’s point scale of most liberal to most restrictive in parentheses after the open/closed categorization. The right-hand column gives each state’s status on the spectrum of strong to weak implementation of the right to racial equality. Belgium, Ireland, France, the Netherlands and the United Kingdom are the most ‘liberal’ or ‘open’ states with regard to citizenship and they all lead the way in the implementation of the right to racial equality in Europe. Sweden, although Howard only gives it four out of six points, nonetheless has a relatively open institution of citizenship and implements the racial equality right strongly. I do not put Portugal in the “strong” category simply because there is not enough information available about the actual mobilization of the right for me to make this judgment, but there is enough information about structural and budgetary matters for me to be certain that it is stronger than the weak states. Finland is on the border between open and closed citizenship states, and it also claims the middle ground on the spectrum of rights implementation. Germany, Luxembourg, Italy, Greece, Denmark, Austria and Spain all fall into the “closed” citizenship category, and all of them have implemented the right to racial equality rather weakly. Although there is, of course, some variation within the groups of “strong” and “weak” implementers, the difference between the two groups of states is marked—as marked it seems as the differences between their respective institutions of citizenship.

**Figure 2: Citizenship and the Implementation of the Race Directive**

State	Open or Restrictive Citizenship	Racial Equality Right
Belgium	Open (6)	Strong
Ireland	Open (6)	Strong
France	Open (6)	Strong
Netherlands	Open (6)	Strong
U.K.	Open (6)	Strong
Sweden	Open (4)	Strong
Portugal	Open (4)	Middle-Strong
Finland	Mixture of open and closed (3)	Middle
Germany*	Closed, but getting more open (3)	Weak
Luxembourg	Closed(2)	Weak
Italy	Closed (2)	Weak
Greece	Closed (2)	Weak
Denmark	Closed (1)	Weak
Austria	Closed (0)	Weak
Spain	Closed (0)	Weak

These results are further supported by data from the Migrant Integration Policy Index (MIPEX). MIPEX considered a variety of measures for integration levels of immigrants in EU Member States including the level of “access to nationality” for migrants and the strength of anti-discrimination policy (including protected areas beyond race, such as religion). In their statistical analysis of the MIPEX data for the EU 15, Huddleston and Borang (2009) found significant correlation between level of access to nationality and the strength/weakness of anti-discrimination policies with a Pearson’s r value of .7427 and a p-value of .0015 (with  $p < .01$  being highly significant). These high levels of correlation also extended to the EU 25 with a r of .639 and a p-value of .0003.

The correlation between the degree of openness of citizenship and the relative strength of the implementation of European racial anti-discrimination law may at first be surprising or seem to be simply a coincidence considering all the discussion in the social sciences about the demise in the importance of formal citizenship in recent times (Soysal, 1994; Sassen, 1998). Yet this correlation may have a stronger relationship at its core. In fact, a number of scholars have responded to the dismissal of the importance of citizenship with studies emphasizing its continued importance for creating identity and for limiting political participation among non-citizens (Martiniello and Statham, 1999; Garbaye, 2002; Ersanili and Koopmans, 2007). Indeed, as Hansen and Weil (2001:2) argue, citizenship “remains, for all the talk of post-and transnationalism, one of the foundations of individual identity. It defines the boundary between us and the others” (Hansen and Weil, 2001: 2).

Citizenship policies have an important impact on the identification of racialized minorities as members or non-members in the political communities of the states where they reside. Consider, for example, the finding that “French and Dutch Turks feel more accepted as members of the host society than their counterparts in Germany” (Ersanili and Koopmans, 2007: 20) because “until recently comparatively limited access to individual citizenship rights has not stimulated German Turks to orient themselves strongly on the host society” (29) and has certainly not stimulated Germans to consider Turks to be part of the German political community. Thus as Hansen and Weil (2001: 12) conclude

Whatever their degree of economic and social integration, *lack of citizenship* differentiates them from the broader community ... the

broader German inability to recognize Turks, Yugoslavs and other former guest workers as Germans (*if for no other reason than because the number of such German citizens is lower than in France and the UK*) and the attacks on Turks as 'foreigners' emphasize this (emphasis added).

Thus, formal citizenship, and the institution of citizenship in a broader sense, continues to exert an important influence on identity politics and, as such, scholars must not discount its likely relationship with racial anti-discrimination policymaking and implementation.

5. Citizens must also be able to claim equal rights as citizens in this theory, but since all European states purport to treat all citizens equally before the law I do not develop this aspect of the theory any further here.

### Problematizing racial discrimination

Perhaps then, the correlation between openness of citizenship and the strength of racial anti-discrimination policy belies a stronger relationship. I propose that such a relationship may be founded on the basic idea that a political community is much more likely to implement a new law strongly if it problematizes what the law hopes to solve (generally Kingdon, 1995; in legal matters Epp, 1998; in racial policy Favell, 1998). If political communities implement laws (such as racial anti-discrimination policy) strongly when they have already problematized the issue the law purports to solve, such as racial discrimination, then the question becomes: how does citizenship relate to the problematization of racial discrimination?

I hypothesize that a political community will be more likely to problematize racial discrimination when the institution of citizenship is 'open' and 'equal'<sup>5</sup>, and much less likely to do so if it is 'closed.' If citizenship is open and equal then it is much more likely that those whom society racializes will be citizens and, therefore, that the unequal treatment of these citizens based on race will visibly contradict the policies and principles/ideals of the state. The problematization of racial discrimination then is a self-reflexive recognition of the social reality of unequal treatment based on the supposed racial identity of fellow citizens. In sharp contrast, as long as minorities are outside the political community, it is much less likely that their daily experiences of discrimination will be problematized by the political community, since their experiences of discrimination may seem normal and may be justified by their status as foreigners.

Citizenship does significant work in this theory because it establishes the dichotomy of us vs. them. It places the racialized and their problems either within the political community or outside it. In addition to this broad framing effect, by placing racial minorities within the political community, citizenship also creates practical political impacts. Minorities may be able to directly pressure their political representatives or participate in public debate by organizing, protesting and voting (Koopmans, et al., 2005). In the same vein, savvy politicians may begin to pander to the minority vote when it gets large enough, or when it becomes an important segment of the society (this can be widely seen in the most recent French presidential election when even Le Pen, the candidate of the far right, appealed to the racialized). Even more importantly, when minorities become a visible and substantial part of the political community, the very idea of the nation and its make-up changes so that when there are problems related to race those problems are within the political community and are much more likely to be addressed as a result.

By placing the majority of the racialized outside the political community, closed citizenship, conversely, re-frames any problems relating to migrants and their descendants as outside the political community, as foreigner problems or issues of immigration, and not as racial discrimination

within the political community. It also excludes racialized minorities from political action and insulates politicians from political responsibility for the realities of racial discrimination. These varying influences of citizenship on the problematization of racial discrimination form the hidden connection between the institution of citizenship and the implementation of racial anti-discrimination policy in the European Union.

Returning to the four countries of this case study may further elucidate this relationship between citizenship, the problematization of racial discrimination and the implementation of European racial equality law. In France, for example, the relatively open institution of citizenship paved the way for European influence via the race directive. France's open citizenship policies have made it possible for some to argue that racial discrimination is a real problem in France, a problem faced by *French* men and women. Because most of the victims of discrimination are French, this debate can no longer only, or even primarily, be one of immigration and about foreigners. At the same time, the French Republican model proclaims the equality of all French citizens regardless of their race. This combination of an open and equal citizenship policy makes racial discrimination a problem. As consciousness of this problem grew in France, the perception of racial discrimination as a real problem within the political community grew, and the search for a workable solution made the French open to the European anti-discrimination proposals enshrined in the race directive. In the end, the French quickly transposed the directive and President Chirac proposed the relatively strong equality agency in an effort to appease those who experience discrimination and to show to the political community that he was working to address what was widely perceived to be a problem. The European Union's mandate to France to create such a body was never mentioned, because the policy was, in large part, a response to domestic politics.

Meanwhile, in Germany's closed institution of citizenship, racial discrimination is simply not seen as a problem. The German government did not prioritize implementing the proposed European solution to its non-existent problem, precisely because there is no perceived need for the directive. Instead the proposal was framed by many in the public debate as an imposition by Europe onto German law and policy. The institution of citizenship casts a wide shadow in Germany not only over the political community which does not recognize racial discrimination as a real problem to be addressed, but also over migrants and their descendants who have a limited voice in politics and who often self-identify as being outside the German political community (Ersanili and Koopmans, 2007). Without any perceived need for the anti-discrimination law, then, it is not surprising that Germany established such a weak equality agency.

The institution of citizenship also frames the implementation of the directive in Austria and Belgium. Belgium's open and equal citizenship policy means that racial minorities are a part of the political community and the discrimination that they face is a problem because it challenges the principle of equality at the heart of that citizenship right. Since racial discrimination is a problem that the political community recognizes, Belgium searches for solutions to this problem and commits resources to fighting it. In particular, Belgium's equality agency is well financed and has significant powers to mobilize the right to racial equality in a number of ways. European anti-discrimination initiatives only reinforced Belgium's commitment to fighting discrimination and led to the expansion of the equality agency.



In Austria, in contrast, the closed citizenship regime keeps most racialized groups outside the formal political community and promotes the idea that such people do not belong within that community even when they have successfully naturalized (Bauböck and Cinar, 2001). The absence of racialized people within the political community in Austria makes it easy to elide the problems of racial discrimination and allows the Nazi-era racism frame to continue to limit the public discussion of race, racism and discrimination without challenge. The impact of this on the implementation of the race directive cannot be understated. Austria's compliance with the directive is minimal, and the agency the state established is exceedingly weak with few powers and resources. For a person hoping to seek redress for racial discrimination in Austria, the battle is a very uphill one indeed.

The proposed link between citizenship and anti-discrimination law will resonate with scholars of American racial policy who have noted that the failure to deliver the promises of equal citizenship was at the heart of the civil rights movement. In the United States (U.S.), the civil rights critique,

advanced deeply critical reviews of and challenges to the realities of U.S. life by measuring the realities with the yardstick of the nation-state's highest principles. The result was the exposure, yet again, of the enormous and brutal gaps between the principles of justice and the realities of injustice lived daily by those who were the victims of racism (Outlaw, 2005:122).

Although there has not been a concerted racial civil rights movement in most European countries, this same critique is beginning to emerge in the states with more open citizenship regimes. Despite this, the link between the institution of citizenship and the problematization of racial discrimination was entirely non-existent in the literature on *European* anti-discrimination, race, and citizenship until one recent article recognized in passing that "the role of citizenship as precondition for . . . [anti-discrimination] rights is ambiguous" (Joppke, 2007). It is hoped that by placing citizenship at the centre of analysis, this paper has taken this relationship beyond ambiguity in order to better understand how it operates and to begin to evaluate the extent of its influence.

## Conclusion

Despite the important link between citizenship and racial anti-discrimination policy proposed by this paper, it must be emphasized that a more 'open' institution of citizenship does not directly cause the problematization of racial discrimination. Instead, it provides the conditions necessary for the problematization of racial discrimination within a particular political community. Indeed, there is no evidence that open citizenship automatically causes the problematization of racial discrimination, or that it does so in a certain amount of time. For example, France's open citizenship regime co-existed with its Nazi-era race framed anti-racism policies for a number of years before the political community fully problematized discrimination and recognized the failure of existing laws. Nonetheless, open citizenship did create opportunities for individuals to challenge these old policies as early as the 1980s (e.g. the *Beur* movement), and it challenged ethno-centric ideas about 'Frenchness' that allowed for emerging evidence of inequality to clash with the nation's highest principles. It seems then that the external pressure placed on France and other open citizenship states was the impetus for implementing strong racial anti-discrimination rights, while

the very same external stimulus failed to move closed citizenship states towards strong racial anti-discrimination rights because of the domestic political constraints related to closed citizenship.

Further research should be done to test this theory more fully. For example, since agencies, once established, may expand their powers or change their policy goals in ways that cannot be predicted and are not intended by the politicians who create them (e.g. the Equal Employment Opportunity Commission in the U.S., Lieberman, 2002), ongoing research should be done to evaluate the implementation of the right by equality agencies in the Member States. It will be especially interesting to see if the European Union-sponsored information sharing networks (such as Equinet) will influence bureaucrats to imagine the right to racial equality in new ways despite the domestic institutional pressures they face to implement the racial anti-discrimination right weakly. Future research should also consider the reception that judges have given to anti-discrimination claims and any intervention that the European Court of Justice makes into the field of racial anti-discrimination that may raise the level of external pressure on domestic institutions. Finally, the similarities between the way that citizenship and racial policymaking and implementation influence one another in both the U.S. and Europe should be further explored. Is this relationship generalizable to other countries in the world?

The changing nature of the institution of citizenship in Germany may provide the best site for giving further depth and detail to the relationship between citizenship and racial anti-discrimination rights, and may either validate or falsify the hypothesis proposed in this article. It will be very interesting to see if the opening of German citizenship results in a larger number of ethnic/racial minorities within the political community, and, if that occurs, how the presence of a substantial number of racialized people within the political community might challenge the institution of citizenship and lead to expanded notions of German identity beyond blood-lineage as well as the recognition of racism beyond the limits imposed by the Nazi-era racism frame. If racial discrimination continues to be excluded from the political community's discourse despite European-level pressures and changes in the institution of citizenship then other possible explanations will have to be considered more fully. However, if the German response to European racial equality policy changes then we may more fully be able to understand this hidden link between citizenship and racial anti-discrimination policies.

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# THE EUROPEANISATION OF IMMIGRANT INTEGRATION POLICIES: WHY DO MEMBER STATES CONTINUE TO GO THEIR OWN WAY?

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## Introduction

There is little doubt that immigration and integration have come to be counted as among the most pressing political issues of our time. In Europe, there is a certain consensus that the challenges associated with migration require joint solutions worked out at EU level. On the migration and border control side of the coin, Europeanisation has become increasingly visible. However, it is less clear how much immigrant integration policies are being Europeanised, and this chapter seeks to clarify the extent and nature of Europeanisation in this policy domain. The 'in vogue' policy of civic integration is examined in particular and I ask whether this norm is taking hold across Member States in Europe. Notwithstanding the salience of the norm in EU rhetoric, the chapter highlights how Member States have shown their capacity to conform to, reject or ignore 'EU norms' as they see fit.

Increasingly the argument is made that EU Member States are converging in their responses to immigrant integration. In particular, scholars point to the trend of civic integration courses spreading across Europe (Joppke and Morawska 2003; Joppke 2007a; Brubaker 2001). The main problem with this pro-convergence literature is its limited comparative scope, which means it provides only a partial picture and thus tends to exaggerate the extent of convergence. Here we provide a more nuanced picture of what is going on in the Europeanisation of immigrant integration by examining wider patterns across the EU-15. The main claim of the chapter is that, while some limited Europeanisation has indeed taken place in the field of integration policies, participation in the construction of EU norms and adaptation to EU norms of integration has varied widely across Member States. The resulting pattern is not one of convergence but of 'differential adaptation with national colours' (Cowles et al. 2000).

The pro-convergence literature hides the fact that domestic factors have been of key importance and that the influence of 'Europe' on national integration policies has been limited. To be fair, Joppke

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(2007b: 273) concludes his most recent paper by asking 'whether 'Europeanisation' *really* is the gist of policy convergence', inviting more rigorous analysis of the convergent trends he identifies. While a rehearsal of the lengthy debates over the definition of Europeanisation is beyond the scope of this chapter, suffice it to say that here we follow the 'shaping and taking' school of Europeanisation (Börzel 2003; Bomberg and Carter 2006) where Europeanisation is seen as processes 'whereby national actors adapt to, but also seek to shape, the trajectory of EU policies, structures and processes' (Bomberg and Carter 2006: 103). We will see that while some vertical and horizontal Europeanisation is taking place in immigrant integration policies, it is not through top-down EU-induced policy convergence but rather through member-state-led, voluntary, informal policy networks which to date has produced as much divergence as it has convergence.

The first part of the chapter outlines the emergence of EU norms on immigrant integration and highlights the emergence of civic integration as a dominant norm in EU discourse. We then see how Member States have 'shaped and taken to' this norm by examining empirical evidence across the EU-15. The challenge to explain *why* countries have responded in the different ways that they have to this norm of civic integration is examined in the final section of the chapter. Case study analysis points to potential explanations for why Member States have adapted to, rejected or ignored the civic integration norm. These include institutional (path dependence), political (politicisation) and ideological (policy framing) variables. Understanding the domestic constellation of these factors helps explain why Member States continue to go their own way with regard to civic integration.

It is worth highlighting the underlying normative concern of this chapter. When the concept of civic integration first appeared in EU rhetoric, it was conceived as a balanced concept whereby immigrants were asked to abide by core liberal values and were ensured, in return, the gradual granting of a set of rights, including social, civic and political rights, comparable to those of EU citizens. However, it is increasingly evident that some Member States have introduced policies centred on a distorted version of civic integration akin to acculturation or even assimilation, typified by Rita Verdonk's reforms of integration policy in the Netherlands. While sharing concerns about the extreme version of civic integration with others (Joppke 2004), the chapter concludes on a cautiously optimistic note that convergence towards this oppressive version of civic integration is not a foregone conclusion. On the contrary, the differential reactions to the norm seen in other Member States show that there are alternatives to the Verdonk version of civic integration.

### Civic Integration Emerges as an EU Norm

Civic integration certainly is in vogue in Europe. EU rhetoric abounds with references to it. The EU programme which deals most directly with immigrant integration is the Hague Programme, adopted by the European Council on 4-5 November 2004. Here the Common Basic Principles (CBPs) of integration policy across the EU were agreed. These principles were subsequently described as a 'simple non-binding but thoughtful guide of basic principles against which they [Member States] can judge and assess their own efforts' (Official Journal of the

European Communities 2004: 16). These CBPs (see Figure I) go some way to outlining the working definition of immigrant integration in currency at the EU level.

Agreed upon by the Justice and Home Affairs Ministers of the Member States of the European Union, and signed off by the European Council of Ministers under the Dutch Presidency in 2004, the CBPs offer the clearest insight into the developing EU policy on immigrant integration. At first glance, the vagueness of many of the CBPs is evident. In particular, we have become accustomed to hearing platitudes such as 'immigration is a two-way process of mutual accommodation' (CBP1). Joppke (2007a) rightly points out that

**Figure I: Common Basic Principles of Integration (CBPs) (Official Journal of the European Communities 2005)**

1. Integration is a dynamic, two-way process of mutual accommodation by all immigrants and residents of Member States.

2. Integration implies respect for the basic values of the EU.

3. Employment is a key part of the integration process.

4. Basic knowledge of the host society's language, history and institutions is indispensable for integration.

5. Efforts in education are critical for preparing immigrants to be more successful and active.

6. Access for immigrants to institutions, as well as to public goods and services, on a basis equal to national citizens and in a non-discriminatory way is an essential foundation.

7. Frequent interaction between immigrants and member state citizens is a fundamental mechanism.

8. The practices of diverse cultures and religion as recognised under the Charter of Fundamental Rights must be guaranteed.

9. The participation of immigrants in the democratic process and in the formulation of integration policies, especially at the local level, supports their integration.

10. Integration policies and measures must be part of all relevant policy portfolios and levels of government.

11. Developing clear goals, indicators and evaluation mechanisms to adjust policy, evaluate progress and make the exchange of information more effective is also part of the process.

[...]the idea that something as complex and extensive as the receiving society, a 'society' after all and not just 'people', should change in response to the arrival of by nature numerically inferior 'migrants' is unheard of (Joppke 2007a: 3).

That said; there are a number of more concrete ideas included in the CBPs. CBPs 2 and 4 are the most relevant for our current investigation. The second of the principles, that 'integration implies respect for the basic values of the EU' is reflective of an EU idea of civic integration, and this principle reveals what is expected of migrants coming to the EU:

Everyone resident in the EU must adapt and adhere closely to the values of the European Union, as well as to Member States' laws. The provisions and values enshrined in the European Treaties serve as both baseline and compass, as they are common to the Member States (Official Journal of the European Communities 2004: 19).



The 2004 Council Conclusions under which the CBPs were adopted clarify that the basic EU values referred to include 'respect for the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law'. Furthermore they include 'respect for the provisions of the Charter of Fundamental Rights of the Union, which enshrine the concepts of dignity, freedom, equality and non-discrimination, solidarity, citizens' rights and justice' (Council of the European Union 2004: 19). The document goes on to state that 'views and opinions which may not be compatible with such basic values might hinder the successful integration of immigrants into their new host society'. More recently, the Council Conclusions adopted at the close of the German Presidency in June 2007 reiterated that

[...] migrants who aim to stay permanently or for the long term should make a deliberate effort to integrate, in particular learning the language of their host society and understanding the basic values of the European Union (Council of the European Union 12-13 June 2007: 24)

The norm of civic integration has become part of the rhetoric used by all EU institutions. Indeed, the Commission has embraced the discourse of civic integration. Former JHA Commissioner Vitorino made numerous public references to civic integration, stressing 'the need for immigrants to have sufficient knowledge about the fundamental democratic rights and obligations, including equality of men and women, and the basic norms and the core values of the host society' (Vitorino 2004). His successor Commissioner Frattini, considered by many to take a tougher line on immigrants' obligations to adjust to the host society, made a number of strong statements referring to the dangers of ignoring the 'values' dimension of integration:

The dark side of the 'old' migration strategy includes the fact of integration problems, often taking the form of the deliberate denial of Europe's founding values and principles. Until a few years ago, our chosen multicultural approach allowed some cultural and religious groups to pursue an aggressive strategy against our values. The targets of this ill-conceived 'attack' were individual rights, equality of gender, respect for women and monogamy (Frattini 2007).

CBP4, which states that 'basic knowledge of the host society's language, history and institutions is indispensable for integration', indicates that integration and introduction programmes are perceived at EU level to be the main vehicle for implementing this concept of civic integration. The Commission has suggested that Member States 'organise introduction programmes and activities for newly-arrived third-country nationals to acquire basic knowledge about the language, history, institutions, socioeconomic features, cultural life and fundamental values' (Official Journal of the European Communities 2005: 7). The perceived importance of introduction and integration programmes is also reflected in the Handbook on Integration for Policymakers and Practitioners issued by the DG Justice, Freedom and Security in November 2004. The core chapters of the handbook discuss integration programmes and civic participation (European Commission 2004). There have also been recent suggestions at EU level that the development of 'common modules' for integration programmes may be fruitful (Council of the European Union 12-13 June 2007: 26).

## Civic Integration: A Contested Concept

But what does the Commission really mean when it talks about 'civic citizenship' and civic integration? Civic integration was initially posited as a two-sided coin of rights and duties. According to early Commission rhetoric, it was deemed a long-term goal, emerging out of the progressive 'granting of civic and political rights to longer-term migrant residents' (Official Journal of the European Communities 2000: 19). It involved attributing 'a set of rights and duties offered to third country nationals' (Official Journal of the European Communities 2000: 21), and was thought to epitomize the principles and values laid down in the Charter of Fundamental Rights of the European Union, which was adopted at the Nice summit in 2000 (Official Journal of the European Communities 2000: 22).

Taken at face value, the ideal-type of civic integration could be interpreted as a sensible and balanced approach to integration, whereby immigrants are asked to abide by core liberal values and are ensured in return a set of rights, including social, civic and political rights comparable to those of EU citizens. Early references to civic integration stressed this balanced 'rights/duties' approach, although the tone has changed in recent times. Closer inspection of the policy and soft law measures which have been adopted to date and which have crystallised into the EU-level norm of 'civic integration' shows that they have tended to emphasise the need for migrants to adapt to EU and national values, belying the idea of integration as a 'two-way process' between migrants and the host state. This has led some commentators to argue that the EU integration strategy is characterized by an increasingly 'moralizing, Third Way-type policy discourse, full of allusions to obligations, responsibilities, duties, and sanctions' (Hansen 2005: 18). Certainly, there is a worry that the emphasis on duties gives the lie to the progressive idea of civic integration originally posited by the Commission.

Furthermore, given the EU's lack of legal competence in this policy area, Member States are free to interpret the concept of civic integration as they see fit and there is certainly evidence that some Member States have implemented a distorted version of civic integration akin to acculturation or even assimilation, whereby the discourse on core liberal values has turned into a discourse demanding adherence to 'national values', 'national culture' and 'a way of life' (Muller 2007: 383).

Some commentators have predicted that this form of cultural assimilation is becoming widespread across the EU and that civic integration has become 'an instance, like eugenics and workfare policies of illiberal social policies in a liberal state' (Joppke 2007b: 248). This is part of the pro-convergence argument – that coercive forms of civic integration are becoming the norm across the EU. Joppke (2007a: 1) argues that 'instead of diverging in terms of national models, Western European states' policies on immigrant integration are increasingly converging [...] towards obligatory integration courses and tests for newcomers'. This apparent trend is attributed in part to processes of Europeanisation, whereby convergence towards a norm of civic integration is held up as 'a pertinent example of soft best-practice Europeanisation' (Joppke 2007b: 247). Joppke presents evidence from three Member States - France, the Netherlands and Germany - to support his claims and argues that processes of Europeanisation are likely

to bring about further 'harmonisation of integration policies across Europe' (Joppke 2007b: 247):

If the same or similar policies of civic integration [...] have come to mark the state's approach to immigrant integration in these sharply distinguished exemplars of 'national model' reasoning, a strong case of policy convergence is established, making it the default claim that needs to be refuted (Joppke 2007b: 244).

1. The research was carried out in 2007/2008 and reflects the legislation and policy in place in the EU-15 at that time. The methodological justifications for not including post-2004 Member States are that conditionality associated with the new EU-12 makes the power dynamics quite different and 'Europeanisation' has taken on a different meaning and process in light of the enlargement processes. Furthermore, in the specific area of migration, it could be argued that the EU-15 are facing different challenges to the new Member States, whose main issues are with emigration and with national minority integration at the current time.

The empirical reality however suggests that it would be premature to declare that this coercive version of civic integration has won the status of a EU-wide policy across the Union.

In the following section I will show how Member States have chosen to conform to, reject or ignore the EU norm of civic integration. That the language of civic integration has become salient at EU level is not disputed. However, this does not mean that policy convergence is imminent. The more coercive civic integration programmes, one might say using civic integration as a codeword for acculturation or assimilation, have only been adopted by a cluster of countries. Looking across the EU-15, we will see that although a number of countries appear to have moved *towards* the EU norm of civic integration since it became salient in EU discourse (The Netherlands as case study), others have outwardly *rejected* the notion of civic integration, moving in a different direction to the EU norm (Sweden as case study). Others still appear to have *ignored* the norm altogether. So, Member States have not reacted uniformly to this emerging norm. Even within these clusters, there is variation as to the scope of change. I will show that while civic integration may be the dominant discourse at EU level, it is by no means the only policy model of integration at work in Europe.

### Civic Integration: A New Model of Integration for Europe?

The empirical findings presented here are based on qualitative study of the most recent legislation and policy documents relating to immigrant integration across the EU-15.<sup>1</sup> The indication is that the convergence identified by Joppke is limited to a number of Member States (albeit the big players in the EU). While he identifies some patterns of convergence, by focusing on three cases (Netherlands, France and Germany), his overall thesis hides the actual continued divergence across Member States.

An examination of the integration policies of the EU-15 reveals that seven Member States – Austria, Belgium (FL), France, Germany, The Netherlands, Britain and Denmark – have introduced or amended integration courses to include a civic integration component which emphasises adaptation to EU and/or national values - and thus moved in the direction of the EU norm. Two Member States – Sweden and Finland – have established introduction courses for migrants but their programmes eschew the emphasis on to 'national values' and 'national culture', adopting a more vocational or functional ethos with the primary aim of aiding workplace integration. The rejection of the norm was expressed in this quote from a Swedish integration policy official:

A few countries have introduced criteria for residence permits regarding not only language ability but also civic education. We are one of the few EU states that do not even have language criteria for citizenship. It remains a very sensitive issue in Sweden. Introducing these criteria for citizenship would be seen and indeed has been seen as comparable with Le Pen, or Haider, kicking the vulnerable immigrants (Quote from Interview with Senior Policy Official in the Division for Immigrant Integration and Diversity of the Swedish Ministry for Integration and Gender Equality 12 December 2007).

The Swedish and Finnish rejection of a coercive form of civic integration has been noted elsewhere, and their policies have been noted for their vocational emphasis and 'socio-economic activation philosophy' rather than the 'national values and norms' emphasis in the coercive versions of civic integration (Jacobs and Rea 2007: 275; Hedblom 2008). Spain is also included in this cluster of rejecters, as the Spanish government has consistently and publicly rejected the idea of compulsory civic integration courses. It has been suggested, for example, that it would be difficult to implement an integration programme emphasising 'Spanish values' given the fragmented identities throughout the autonomous regions in Spain (Gomez and Tornos 2000). This rejection recently manifested itself in the Spanish government's successful stalling of the French Presidency's 2008 attempts to introduce an EU-wide integration course as part of its proposed European Pact on Immigration and Asylum (Euractiv.com 2008). The Spanish discomfort with compulsory civic integration courses caused France to drop references to such contracts and merely invite EU states to promote integration of migrants 'in a manner ... they deem appropriate' (Euractiv.com 2008).

Meanwhile, five Member States (Greece, Ireland, Italy, Luxembourg and Portugal) have not developed national civic integration programmes at all. While some of these continue to deliberate over the form that their integration policies should take, others have left competence for the integration of migrants to regional or local authorities and have opposed the idea of an overarching national integration programme. The very decision not to provide a national framework of civic integration indicates a rejection of the validity of the inculcation of 'national values' and 'national culture' which is implicit in the more coercive and assimilatory interpretations of civic integration.

It is clear that the EU-level norm that general introduction programmes can aid integration of migrants is reflected in the domestic arenas of Member States. However, despite this trend, we have seen considerable divergence in the interpretation of civic integration across Member States and continued diversity in terms of the content, format and institutional setting of integration programmes. The norm of civic integration is thus not as entrenched across the EU as some commentators have suggested.

**Table I. Integration Programmes in the EU-15**

EU Member State	Indicator 1	Details	Indicator 2	
	Integration Programme available to all migrants?		Civic integration component?	
The Netherlands	Yes	Compulsory language and civic integration course. Civic Integration exam abroad for all migrants wishing to obtain long-term visa.	Yes	
Denmark	Yes	All refugees and immigrants obliged to take part in introductory programme over 3 years.	Yes	
UK	Yes	Yes, local authorities administer courses.	Yes	
Belgium (FL)	Yes (but no federal policy – separate regional policies.)	Courses known as ‘Citizenship trajectories’	Yes	
Belgium (Walloon)	Yes	Walloon follows French model of voluntary integration programmes	Yes	
France	Yes	Contrat d’Accueil et d’Intégration Language Course (200-500 hours) and civic orientation.	Yes	
Austria	Yes	All migrants attend course to acquire proficiency in German language to deal with day-to-day topics (Module 1).	Yes	
Germany	Yes	Language training (up to 600 hours)	Yes	
Sweden	Yes	Municipal Authorities offer courses, tailored to individual migrants’ needs. Content includes language programme, social studies, computer training and other vocational training. <sup>5</sup>	No	
Finland	Yes	Integration programme of 3-5 yrs. ‘Guidance’ programme offers pre-arrival induction for foreign workers. Refugees offered introduction programme, coordinated at a municipal level. <sup>6</sup>	No	
Ireland	No	No national integration policy. Some language courses available to asylum seekers and refugees.	No	
Italy	No	There is no national integration strategy; integration programmes are left to local authorities. Pilot programmes for pre-arrival introductory courses carried out in 2006. <sup>7</sup>	No	
Spain	No	No national level integration course. Some courses available on voluntary basis at regional level, although format uncertain as yet. <sup>8</sup> Strategic Citizenship and Integration Plan 2007-2010 – multiculturalist policies prevail and civic integration rejected.	No	
Greece	No	New integration programme includes integration ideas but not in practice as yet. <sup>9</sup>	No	
Luxembourg	No	Integration programme for long-term unemployed migrants but no general introductory programme.	No	
Portugal	No	Some private institutes (IEFP) and NGOs offer language and training courses at local level but no integrated national policy. <sup>10</sup>	No	

	Details	Since?	Position on EU norm
	Netherlands championed idea of civic integration and has rolled back multiculturalism in recent years. Non-EU migrants have obligation to pass integration tests and those failing to pass the test after three and a half years are sanctioned and a permanent residence permit withheld.	2007 Integration Act 2007 - 2011 Integration Memorandum: Make sure you fit in!	Conform
	Since July 2006 immigrants have been obliged to sign a 'Declaration on integration and active citizenship in Danish society' and draw up an 'Integration Contract'. The Declaration includes compliance with and respect of democratic values, the responsibility to learn Danish and gain knowledge of Danish society. <sup>2</sup>	2006 Declaration on Integration and Active Residency in Danish Society	Conform
	From 2007, prospective citizens and those seeking long-term work permits must pass a test proving they understand the UK and the English language. <sup>3</sup>	2002 Immigration and Nationality Act 2005 National refugee integration strategy. 2007 Compulsory Life in Britain test.	Conform
	Aim: 'social cohesion in which everyone's particularity and cultural identity can prosper, but in which the current values, norms and rules of our democratic state and the rule of law, remain the corner stone of Flemish society'	2003/2006 Civic Integration Decree of the Flemish government.	Conform
	Option for civic orientation and career guidance	1996 Walloon Decree of 4 July 1996 regarding the integration of foreigners	Ignore
	1-year programme Civic and Social Orientation	2006 Loi Sarkozy (2eme) Contrat d'Accueil et d'Intégration.	Conform
	Module 2 makes explicit reference to European norms and values.	2005 Settlement and Residence Act. <sup>4</sup>	Conform
	Orientation Course (30 hours on legal system, history and culture)	2005 Immigration Act Zuwanderungsgesetz January 2005	Conform
		1996 Second Cultural Policy 2002 Swedish Integration policy for the 21st Century	Reject
	Emphasis on workplace integration and functional integration.	2006 Government Migration Policy Programme	Reject
	N/A	2007 Immigration Bill (not passed yet and little reference to integration therein)	Ignore
	N/A	2002 Immigration Law	Ignore
	N/A	2000 Law Concerning the Rights and Freedoms of Foreigners and their Social Integration Plan Estratégico de Ciudadanía e Integración 2007-2010	Reject
	N/A	2006 Immigrant Bill on Entry, stay and integration of third country nationals	Ignore
	N/A	n/a	Ignore
	N/A	n/a	Ignore

2. See Ministry of Foreign Affairs Denmark 2006. For discussion of Danish Integration Policy, see Kristensen 2007.
3. See The Home Office - Life in the UK Advisory Group 2007.
4. See Austrian Federal Minister of Foreign Affairs 2005
5. See Swedish Integration Board 2002
6. See Finland Ministry of Labour 2006
7. See Official Journal of the European Communities 2006
8. See Official Journal of the European Communities 2006
9. See Official Journal of the European Communities 2006
10. See Fonseca et al. 2005

In order to establish how much of the clustered convergence is due to Europeanisation, we need to take account of timing. Table 2 summarises the findings from the quantitative snapshot of integration policies in Europe and shows that a number of Member States, revealed later to be the pacesetters of civic integration, had adopted civic integration courses before the norm crystallised in the Common Basic Principles as an EU norm<sup>11</sup>:

11. This paper is part of a broader PhD thesis which shows that The Netherlands and Denmark have been uploaders of integration norms to the EU level, while Austria has been less involved in uploading norms. Austrian civic integration policy was the by-product of a broader domestic politicisation of immigration by mainstream elites in the context of the electoral success of the far-right. Thus while bottom-up Europeanisation in the form of uploading is taking place, there are underlying factors driving actual policy change at the domestic level. This domestic politicisation variable is revealed in the PhD thesis to be one of the most important determining factors for the adoption of civic integration across Europe, while Europeanisation is a secondary factor.
12. Note that the rejecters include Member States which have developed integration courses but eschewed the emphasis on *civic* integration (EU and national values) and Member States which have outwardly rejected the idea of civic integration as a policy option.

Table 2 Differential Adaptation to Civic Integration Norm	
Member states should develop national integration programmes of integration, which emphasise <i>civic integration</i> and transmit 'EU values' to newcomers.	
<b>Consistent (Pre-CBPs)</b>	Netherlands Denmark Austria
<b>Conform</b>	Germany France Belgium UK
<b>Reject<sup>12</sup></b>	Sweden Finland Spain
<b>Ignore</b>	Italy Portugal Ireland Greece Luxembourg

Given the variation identified, it is clear that only qualitative research with sensitivity to national contexts can reveal the nature and rationale behind civic integration policies in different Member States. In the following section, we examine in more detail two cases, which represent the two extreme clusters of differential adaptation to the civic integration norm – those moving towards the EU norm (The Netherlands) and those rejecting the EU norm (Sweden). We also make some observations regarding those Member States which appear to be ignoring the EU norm. Through these case studies, we see that Member States' differential adaptation to the EU norm of civic integration can be largely attributed to different domestic ideological and institutional environments, as well as differential inputs into the construction of the EU norm.

### Moving Towards the EU Norm of Civic Integration: The Netherlands

The proverbially difference-friendly, multicultural Netherlands is urging migrants to accept Dutch norms and values in the context of a policy of civic integration that is only an inch (but still an inch!) away from the cultural assimilationism once attributed to the French (Joppke 2007a: 2).

It is well known that the Netherlands currently espouses a coercive policy of civic integration, akin to acculturation. However it is wrong to assume that a dramatic shift has occurred from a 'multicultural paradise' to a culture of assimilation. The shift took place over a prolonged period of time and indeed even in the 1990s, the Netherlands had already established a civic integration programme. It is true however, that a number of recent events, including the rise of right-wing politician Pim Fortuyn, the publication of 'The Multicultural Disaster' by left-leaning journalist Paul Scheffer, the Ayaan Hirsi Ali affair and the

murder of film director Theo van Gogh have politicised the topic of immigrant integration and changed the political climate significantly.

Entzinger notes a 'turning point' in Dutch immigration policy in 2003, where concrete demands for greater adaptation to Dutch norms and values became the central tenet of integration policy (Entzinger 2003). The first indication of a turn towards coercive integration was the introduction in 2004 of the compulsory integration test for immigrants. According to the 2004 law, new immigrants settling in the Netherlands and those who have attended school there for fewer than eight years have to pass this language and civic integration test. In 2006, the 'Civic Integration from Abroad Programme' was introduced, requiring prospective immigrants to pass an exam testing their knowledge of Dutch society and language before they arrived in the Netherlands. These measures have made explicit what is deemed necessary for full integration, namely linguistic competence and an understanding of so-called 'Dutch' values.

13. See 'Naar Nederland' Pre-arrival video Ministry of Justice (The Hague 2005)

Looking at the pre-arrival video, which contains images of scantily-clad women and homosexual men kissing, as well as a dramatic section which makes clear that honour killings, domestic abuse and female genital mutilation are illegal and punishable by law in the Netherlands, it is clear at whom the civic integration programme is aimed. However questionable the targeting of Muslim immigrants and the way of communicating these values, gender and sexual equality and a rejection of violence are indeed core liberal values. The more questionable elements of the pre-arrival induction into 'Dutch culture' are the inclusion of 'testimonials' from immigrants, which have an overtly negative tone:

*"If someone from abroad was planning to come here, I would tell you to think hard about what you're doing, what you're letting yourself in for. If I were 30 or 25, I wouldn't leave my country and come here... I'd stay in my own country..."*

*"What is important is that at the moment you decide to move...to emigrate, that you do it internally too. That you, as it were, emigrate internally. That you almost literally move from one culture to the other culture. So then you won't be shocked when your culture is taken away from you..."*<sup>13</sup>

It has been said that these civic integration measures should be seen for what they really are – a form of border control. Despite the unwelcoming comments above, it is also worth noting that the cost of integrating into Dutch society has become prohibitive. The pre-arrival preparation pack costs 80 euro, while the pre-arrival test costs in the region of 350 euro. All this is before arrival, when the integration programme proper begins. The immigrant has to pay for language and civic tuition upfront, although some reimbursement is offered if the immigrant passes the test within three years of arrival. This has led some to suggest that the pre-arrival integration programme is a way of preventing low-skilled migrants from entering the country.



## Has Dutch Policy become Europeanised?

Looking at EU-level discourse on integration, one can see some similarities with the Dutch measures and discourse on civic integration, although the Dutch discourse has hardened since the CBPs were introduced. One might assume that the Dutch have downloaded this EU norm to the domestic level. In fact, the reality is that the Dutch have been highly successful at uploading their ideas of integration to the EU level. Indeed, if we chart the origins of immigrant integration on the EU agenda, we see that the Dutch were instrumental in getting integration onto the EU agenda and in passing through the CBPs, which were drafted by Dutch civil servants in consultation with the (U.S.-based) private think-tank, the Migration Policy Institute (Interview with Head of Co-ordination and Chief Policy Officer at the Minorities Integration Policy Department (2002-2006) at the Ministry of Justice in the Netherlands 21 April 2008).

A shadow-author of the CBPs and advisor to the Dutch Presidency, maintains that the Dutch were adamant that integration would be moved up the EU agenda:

For the Dutch, this was really high on the agenda and they brought a tremendous amount of institutional capacity and political will on this issue. In the middle of preparing the Common Basic Principles, the Theo Van Gogh murder happened, and this became an incredibly politically sensitive and important issue for the Dutch (Interview with Shadow-Author of CBPs 15 April 2008).

Other Member States were only minimally involved, offering suggestions for changes during two Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) meetings in which the CBPs were discussed. The Dutch Presidency's first draft of the principles remained largely unchanged from the final draft adopted in The Hague by the Council of Ministers. Thus the Dutch government successfully exported its model to the EU-level and this can explain why the Dutch discourse and EU discourse on civic integration appear to be quite similar.

If the Netherlands was the pacesetter and norm entrepreneur pushing its norm of civic integration to the EU level, how can we explain why other Member States followed suit? Did the policies of other Member States in this cluster (Austria, Belgium (FL), France, Germany, Britain and Denmark) undergo Europeanisation? Certainly it appears that some Europeanisation is taking place – but it is voluntary, informal and conducted through policy networks rather than in a top-down fashion. As one Dutch official put it, 'we only swapped ideas with like-minded states' (Interview with Policy Officer in the Ministry for Immigrant Integration of the Dutch Government from 2003 to 2006, 29 March 2008) – these were identified as Denmark, Britain and Germany, countries that were undergoing similar domestic reforms of integration policies simultaneously. In the case of Denmark, it appears that a particularly strong bilateral relationship between the two integration ministers aided policy diffusion (Interview with Head of Co-ordination and Chief Policy Officer at the Minorities Integration Policy Department (2002-2006) at the Ministry of Justice in the Netherlands 21 April 2008). Apart from limited forms of Europeanisation in a policy area where the EU lacks legal competence, the driving forces for change are found in the domestic political and ideological settings of individual Member States.

## Political and Ideological Factors

One of the key factors common to this cluster of civic integration countries is the politicisation of migrant integration, often triggered by the presence of a successful far-right party focusing on immigration. Far-right parties tend to push immigration onto the political agenda, making it an election issue, leading mainstream parties to adapt their discourse and harden their stance on immigration and integration in order to secure votes. While in the Netherlands in the 1980s there was agreement among the elites of main political parties not to raise immigrant issues, but instead to resolve them through technocratic compromise, immigrant integration policies have become a central political battleground in recent years, due in large part to the Pim Fortuyn moment in 2002 (Bruquetas-Callejo et al. 2007: 19). The resurgence of the extreme right is a common factor across all of the Member States which have adopted national civic integration programmes, with the possible exception of Britain, which has seen migrant integration politicised as part of the wider discourse on the 'war on terror'. This politicisation has led to the reframing of the integration debate into a 'migrant as threat' frame, with civic integration courses, of varying degrees of harshness, posed as the solution.

So why have this group of countries adopted civic integration as their solution to perceived integration failures? It is clear that 'Europe' is being used as a forum for the exchange of ideas on integration and that some countries have mimicked the Dutch model to varying degrees. However, their reasons for looking to the Dutch model in the first instance are firmly based in domestic politics. Whether immigrant integration is politicised is a key factor in how the issue comes to be framed. If the resulting dominant policy frame fits well with the idea of civic integration, then we are likely to see such a policy adopted. In this case the 'migrant as threat' frame fits well with the idea of inculcating national values in order to neutralise the threat. We see in the following case a rejection of the norm of civic integration, for similar domestic political and ideological reasons.

### Rejection of the EU norm: Sweden

It has been claimed that Sweden can be counted among the countries that have abandoned multiculturalism, taking an 'assimilationist turn' (Brubaker 2001: 535) and that it is another example of how 'the obligatory and coercive thrust of civic integration is moving to the fore almost everywhere' (Joppke 2007a: 12). Sweden in fact offers a good example of a country that has embraced a certain idea of integration which is non-coercive and which emphasizes a 'socio-economic activation philosophy' rather than the 'national values and norms' emphasis in the Dutch version of civic integration (Jacobs and Rea 2007: 275).

There is quite a difference between an integration programme "just" being imposed in the light of a socio-economic activation philosophy (Sweden, Finland) or (also) aiming at other goals such as linguistic assimilation and acculturation as preconditions for residence rights and naturalisation (Jacobs and Rea 2007: 275).

The basic thrust of the policy is aimed at immigrant inclusion in the workforce and at achieving broader forms of equality in society.

Immigration became a political issue in the late 1960s in Sweden, when an intense debate arose in the media on issues related to immigration. In the debate, two main factions were identifiable: advocates of universalism and advocates of a multicultural society (Dahlstrom 2007: 325). Universalists argued that no special attention should be given to ethnic diversity and that immigrants should be incorporated in the welfare programmes already in place. Multiculturalists, on the contrary, advocated a more diverse immigrant policy, one that actively supported the preservation of diverse cultures. The multiculturalists won the argument in the first instance at the inception of Swedish integration policy, but since the mid-1990s, universalist ideas of equality, civic inclusion and mainstreaming have been dominant in the political discourse and have been the driving force behind integration policy. There is a reception and integration programme for immigrants in Sweden, but the programme is only obligatory for migrants who receive social benefits, in stark contrast to the Dutch model where immigrants are obliged to attend courses even though they are not entitled to social benefits. It has been noted that, because of its non-obligatory character and understanding of integration as equal rights and non-discrimination, Sweden's programme differs considerably from the Dutch model of civic integration (Michalowski 2004: 163).

The format and availability of Sweden's introduction courses has remained largely unchanged since their inception in the 1970s (Dingu-Kyrklund 2007; Dahlstrom 2007). The purported goal of the courses has been to address what were seen as basic conditions of adjustment to the Swedish society, emphasizing linguistic competence, access to public services and benefits and insertion into the workforce with no mention of national values appearing in the course literature. It does however have a human rights dimension, with particular emphasis on equality.

It should be noted that since the change in government in 2006, when the Social Democrats were defeated by a Centre-Right Alliance, ending an eight-year reign in government, a change in rhetoric has been noticeable. The new Government Statement of Policy indicated that some changes in integration policy would be needed because language courses were seen to produce poor results. However, the emphasis on a 'socio-economic activation policy' (Jacobs and Rea 2007: 275) remains the central tenet of policy, as this excerpt from a statement of government policy by Prime Minister Reinfeldt shows:

The best road to integration is work and language skills. This is why integration in the labour market and language teaching must be improved. Discrimination will be combated and procedures for assessing qualifications will be simplified (Reinfeldt 2006: 11).

A strong emphasis on human rights is notable in the discourse of the current Minister for Integration and Gender Equality, Nyamko Sabuni, herself originally a Congolese migrant. In particular, gender discrimination and 'honour crimes' have become the focus of much of the political discourse in recent times. However, we have not yet seen a shift from the equality frame towards the 'national values' rhetoric which is prominent in the Dutch discourse and department sources suggest that a dramatic change is not imminent and would be met with strong political resistance (Interview with Senior Policy Official in the Division for Immigrant Integration and Diversity of the Swedish Ministry for Integration and Gender Equality 12 December 2007).

## Political and Ideological Factors

If politicisation of integration was the precursor to the adoption of harsh civic integration measures in the first cluster of countries led by the Netherlands, the Swedish political scene has, by contrast, been marked by a consensus among the political elite, among established parties but also in the media, against any form of collaboration or coalition with the far-right. While the far-right 'Swedish Democrats' party has increased its share of vote with each election since their inception in 1988, they have been effectively 'quarantined' by the political class (Tawat 2007). This is not to say that there has been no political debate about immigrant integration in Sweden. In the run up to the 2006 election, the Liberal Party attempted to bring the idea of language condition for naturalization onto the agenda, and was met with accusations by the other parties of riding on the xenophobic wave in Europe (Interview with Senior Policy Official in the Division for Immigrant Integration and Diversity of the Swedish Ministry for Integration and Gender Equality 12 December 2007). This is far from the political climate of the Netherlands, where language tests are the least of immigrants' worries. Elites' general refusal to politicise integration in Sweden has to be seen as an important factor keeping coercive civic integration off the agenda.

Contrary to the Dutch case, where reframing of the integration debate into a 'migrant as threat' frame took place as a result of politicisation of the issue, the prevailing frame in Sweden has been one emphasizing equality and solidarity:

The Swedish Model, which spun off from Gustav Geiger's communitarian ideas and which, with a peaceful and stable environment, allowed the Social Democrats to build one of the earliest welfare states in the world is the dominant frame. Swedish policymakers have dealt with the cultural integration of immigrants in those terms (Tawat 2006: 59).

Policy frames are not immutable but they are resistant to change and generally require an external or internal shock to the system for major change to occur. The equality and solidarity frame does not fit well with an ideal of coercive and demanding civic integration which requires adaptation to 'national values', as in the Dutch case, and this ideological misfit is one of the reasons why it has not taken hold in Sweden to date.

## Inertia in the Face of the EU norm

As revealed in Table I, a number of Member States have more or less ignored the EU norm of civic integration. This failure to converge can be put down to lack of institutional capacity and a lack of politicisation of the issue of immigration and the broader historical legacy which is unique to each member state. Ireland, for example, is a country which has been transformed from being a country of emigration to one of immigration in the space of a decade. Policymakers have been deliberating over its integration policy for the last number of years, but civic integration has not been adopted. To date the *ad hoc* policy focuses solely on refugee integration and offers minimal language support and has no structured integration programme to speak of. The inertia can be explained by the institutional incapacity and lack of a policy frame, due to Ireland's up-to-recent status as a country of emigration. This policy void, along with a political consensus among the elites not to politicise immigration, has meant that integration policy has developed at a snail's pace.

Other examples of Member States which have not converged towards this norm of developing a national programme of civic integration include Greece, Italy, Portugal and Luxembourg. It is notable that the southern European countries, Member States which have been most concerned with illegal immigration, are clustered in this group of non-converging countries. It could be argued that what we are seeing is a time-lag and that these Member States may in fact eventually go down the civic integration route. However, there is no evidence that this is imminent. Apart from the Italian case, immigrant integration has not been overtly politicised by elites in these Member States. More importantly, these Member States exhibit lack of institutional capacity and resources in the policy area of integration. While it is almost impossible to predict future shifts in policy, the main point here is that many Member States have not shown signs of adopting national civic integration courses to date and that the pro-convergence literature hides this fact. Thus the claims of convergence are at best premature.

## Conclusions

The literature on Europeanisation has attempted to explain how 'Europe' hits home (Börzel and Risse 2000). We have seen here, using the case of the EU civic integration norm, that Europeanisation does not necessarily imply convergence, especially in policy domains where the EU does not have legal competence. Contrary to claims of convergence towards a norm of civic integration, and notwithstanding some policy exchange and rhetorical convergence around the norm of civic integration, we have seen Member States' capacity to conform, but also to reject and ignore EU norms. It remains to be seen whether more intensified Europeanisation will indeed bring about more convergence. If the EU increases its competence with regard to immigrant integration with the now-unsure passing of the Lisbon Treaty, we may indeed see the Commission step up efforts to increase policy exchange. However, it should be noted that the Lisbon Treaty explicitly precludes harmonisation of national integration and citizenship laws.

At any rate, we have seen that Europeanisation is secondary to domestic causes of change. To understand why Member States continue to go their own way, we need to look to the domestic arena. Domestic institutional variables such as policy legacy and historical factors are of course crucial. Furthermore, political variables such as the presence or absence of far-right anti-immigrant parties and the subsequent levels of politicisation of immigrant integration are important determinants of how policy develops in Member States. Where immigration and integration become highly politicised, we have seen elites turn towards more coercive forms of civic integration as a restrictive compromise to appease potential far-right voters. That said, the civic integration norm must fit with existing policy frames. We saw in the Swedish case how the competing equality and solidarity policy frames have been incompatible with the civic integration norm to date.

The original idea behind civic integration, one emphasising equally the 'rights and duties' of newcomers to European societies, has been lost in the assimilatory tone of the more coercive forms of civic integration. However convergence towards this version of civic integration is not a foregone conclusion. The differential reactions to the norm seen in other Member States allow us to retain a degree of optimism that there are indeed alternatives to the Verdonk version of civic integration.

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# MULTI-NATION BUILDING? IMMIGRANT INTEGRATION POLICIES IN THE AUTONOMOUS COMMUNITIES OF CATALONIA AND MADRID

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## Introduction

This paper seeks to explore the nexus of nationalism, citizenship and migration in the context of multinational Spain. In a state where citizenship and membership are historically contested along both ideological and territorial cleavages, the paper argues that integration policies can be instructive as to how statewide and regional actors define citizenship in a decentralized context. Particularly instructive is how they perceive their own nation or community which immigrants must 'integrate into', as measured by distinct integration approaches at the statewide and regional level.

The paper develops the argument that the lack of a coherent Spanish model of integration is a function of two linked dynamics: a lack of consensus between the two major statewide parties over the issue, and the nature of Spain's multinational character, institutionalized via a decentralized, quasi-federal system. Without a coherent Spanish model, autonomous communities have filled the public policy void towards integration based on regionally distinct conceptualizations of citizenship and inclusion.

The philosophy of the respective regional policies largely coincides with the level of political and social integration with the centre. Thus, Catalonia has followed its own broadly assimilationist nation-building project, based largely on the transposition of policies already developed towards non-Catalan Spanish migrants. The autonomous community of Madrid has followed a broadly intercultural model, based on the historical model of the *casas regionales*, a pre-welfare state network of regionally-based civic centres used by rural migrants to urban areas such as Madrid for over a century.

*In this chapter, I highlight the limits of the use of the concept of national models by investigating citizenship and immigrant integration policies in Spain. Rather than representative of internal contradictions to a coherent, if generalized model, it argues that the case of Spain is a case of competing ideological and territorial models based on embedded historical and institutional logics. At the central government level, both parties have developed policies based largely on long-developed ideological understandings of social citizenship, while the autonomous communities of Catalonia and Madrid have employed public policy towards integration based on regionally distinct conceptualizations of citizenship and inclusion, which coincide largely with their respective levels of political and social integration with the centre.*

## Spanish National Integration: Multi-nation building?

During the course of the last several decades, a broad spectrum of academic research has studied the relationship between the contemporary nation-state and immigrants within the context of *integration* (Brubaker, 1992, Favell, 2001). Typologies were created to differentiate between

distinct national models, distinguished by their differences in how citizenship was defined and in their method and level of state intervention towards those ends (Koopmans & Statham, 2000).

Integration of immigrants, in this context, can be understood as a public policy manifestation of distinct conceptualizations of citizenship. Much of this research has been argued from the perspective of historical institutional legacies and path dependence in shaping these distinct national models (Castles, 1995) which 'reflect and reproduce longer standing narratives of nationhood and national destiny' (Favell, 2003: 20). British multiculturalism and its race relations approach has been demonstrated to hold its cognitive roots in British imperialism and the historical legacies it left behind (Hansen, 2002), while French notions of citizenship also stem from pre-WWII traditions of French republicanism, applied to post-WWII migrants in the form of assimilation (Brubaker, 1992). Germany, on the other hand, has been defined by a unique type of multiculturalism, which included a 'post-national' equalization of rights without according citizenship which was long conceptualized from a *ius sanguinis*, rather than a *ius soli*, perspective (Joppke, 1999: 191).

In contrast with the cases of Britain, France, or Germany, however, Spain's trajectory of national integration has enjoyed a much more chequered past. Instead, late industrialization and weak state penetration led to alternative forms of allegiance to the state, both in terms of competing ideologically-bounded forms of Spanish nation-building at the centre (Núñez Seixas, 2001a), in addition to alternative forms of nation-building in parts of Spain's territorial periphery, most notably in Catalonia and the Basque Country (Conversi, 1997). Thus, as Spain entered the democratic transition, Juan Linz famously argued that, 'Spain today is a state for all Spaniards, a nation-state for a large part of the Spanish population, and only a state but not a nation for important minorities' (Linz, 1973: 99).

These ideological and territorial cleavages appeared solved, or at least mediated, by the successful transition to democracy after the death of Francisco Franco in 1975. Given the social pacts between government, union and business organizations in the early period of the transition, the early consensus among academics was that the Constitution of 1978 had successfully corralled ideological cleavages into a consensus style of politics (Giner and Sevilla, 1984, Bermeo, 1994, Roca, 1987, Pérez Díaz, 1993).

The political polarization of more recent years in Spain, however, has shown that while the social concertation of the Spanish transition was real, it was transitional and ephemeral, and not an institutionalized form of policy making. Rather than consociational or corporate, the Spanish policy process is better characterized as one of 'power concentration' (Heywood, 1998). Power concentration explains how in recent years national executives were able to promote policies which were not accorded with the opposition or other peak interests, even on matters which had previously been considered matters of state. Thus, while quantitative investigations have shown there have been times when certain high salience policies – terrorism, foreign policy and regional policy – were historically more favourable to consensus (Múgica and Sánchez-Cuenca, 2006), a qualitative review of more recent policy debates on these high salience issues shows consensus as a contingent rather than institutionalized phenomenon.

Politically, the breakdown of consensus was highly visible during the political fallout over the 2004 train bombings in Madrid, which

rather than unifying political elites such as in the United States immediately after 9/11, it exposed many of the still-raw cleavages which had lay latent during the transition. In terms of foreign policy, Spain participated in the Iraq war (promulgated by the PP government), and withdrew from it (by the incoming PSOE government), without consensus between the two big statewide parties. Finally, in terms of regional policy, the current Socialist government renegotiated parts of Spain's territorial model without support from the main opposition party (in this case, the new Catalan statute of autonomy).<sup>1</sup>

Given this climate, the question of how immigrants are 'integrated' in Spain first begs the question as to how the autochthonous community itself is integrated as a nation (Banton, 2001). Thus, on the one hand, with regards to other European states with a longer tradition of immigration, the integration debate seems to already have moved beyond national models, and towards a 'new elite consensus' defined by civic integration and antidiscrimination (Joppke, 2007a, 2007b). Following this logic, forms of integration have moved from intra-state consensus – in the form of 'state models' – to an inter-state consensus. On the other hand, this contrasts sharply with the marked lack of consensus in contemporary Spanish politics, including the yawning gaps between the different ontological conceptualizations of what Spain 'is', which appear as strong as ever. At the same time, over the last decade Spain has been transformed from a state with a statistically negligible immigrant population to one of the top ten (gross) receivers of international migrants in the world.<sup>2</sup>

Taken together, this begs the question, how does Spain fit into (inter) national integration debates? How has Spanish public policy problematized its new immigrant population? The remainder of this essay seeks to engage directly with this question. It lays out the case that there is in fact no coherent, consensus position on immigrant integration in Spain, and the two main parties are as divided on this question as they are on many of the other 'questions of state'. It also finds that immigrant integration policies at the regional level follow largely along the lines of regions' relative integration into the incomplete Spanish nation-building project, and have based their integration projects largely on historical models, contrasted here by investigating the policies of the autonomous communities of Catalonia and Madrid.

## Spain's Integration Policies – Opposing Conceptualizations of Citizenship

While it is certainly true that Spain is a country of recent immigration, it is also a fact that the sheer speed and volume with which migration flows have increased over the past decade have transformed Spain into one of the largest receivers of immigrants in the world. The immigrant population as a percentage of the total population has climbed from 2.3 per cent in 2000 to 10 per cent in 2007, rising at a rate from between 30 to 50 per cent a year during that time period (*Instituto Nacional de Estadística*). Given these drastically different levels of demographic flows, it is critical to break down public policies towards immigrant integration between the period up to which immigration was arguably statistically negligible, and the period after which migration flows begin to grow at a markedly faster rate.

Before 2000, low absolute levels of immigration meant that the issue had a correspondingly low political and social salience. Because of this, Spain loosely followed what has been typologized as a German model

1. Related to this policy, Lieutenant-General José Mena Aguado - the commander of Spain's 50,000 ground troops – threatened military intervention on 7 January 2006 in the case that the Socialist Party (PSOE) government passed a statute of autonomy giving Catalonia status as a 'nation'. This, according to the General, represented a threat to Spain's territorial integrity, which the military was bound to defend under article 8 of the Constitution (he was subsequently placed under house arrest).
2. United Nations, Trends in Total Migrant Stock: The 2005 Revision

of integration, at least in the sense that Spanish legislation treated the limited number of foreign residents as guests, conceptualizing them as temporary sources of labour under a system in which permanent alien residence legally did not exist.<sup>3</sup>

That this was the case was evidenced by the first contemporary immigration law passed since the re-establishment of democracy (1985), approved by parliament with little dissent or social debate. Indeed, evidence that inflows were statistically negligible and therefore of no political salience is the fact the law itself was not passed due to social or political pressure to do so, but was instead due to Spain's imminent membership of the European Community, and its move to harmonize Spanish regulations with European ones (Cornelius, 1994: 345).

3. To be clear, the system established in Spain was not German-based in the sense that it did *not* openly recruit guest-workers on a large-scale (such as the *Gasterbeiter* programme).
4. In Spain, the size and importance of this underground economy should not be underestimated for the demand it has the potential to produce in terms of low-cost labour. In 1985, for example, it was estimated that 1 in 4 Spaniards was working in the informal economy (Benton, 1990). As a percentage of GDP, the underground economy represents approximately 22 per cent of the total (Schneider, 2004).
5. Thus, Spain's method of using undocumented migrants working in agriculture and the state's large number of small and medium sized businesses gave Spanish industries an advantage by supplying low-cost labour, institutionalizing a 'pull factor' common to Southern European EU-Member States, characterized by the availability of unregulated work (King et al, 1997).
6. The official title of the law was LODILE 4/2000.

Rather than a stand-alone model, then, integration in the Spain of the 1980s translated into an informal incorporation into Spain's underground economy.<sup>4</sup> Indeed, it was an open secret that Spanish officials tolerated undocumented migration as a back door method to aid ailing Spanish business sectors suffering from low productivity and threatened by outside competition.<sup>5</sup> But while tolerated, the 1985 legislation consigned migrant workers to illegality, excluding them from social services and labour protection. This approach, argues Suárez-Navaz, created '*internal borders among the people living in Spain, based on a restricted notion of citizenship ...* The group of immigrants that do not have the ideal [economic] level and origin are condemned to join the ranks of the informal economy and to be subject to permanent persecution by the police or by other social actors' (Suárez-Navaz, 1997).

Overall then, immigration and integration policies pre-2000 were 'defined by government officials as a delicate balancing act' attempting to aid inefficient Spanish businesses while avoiding a 'xenophobic backlash' amongst the autochthonous population (Cornelius, 1994: 333). This 'balancing act' matches closely with Freeman's theory of 'client politics' (1995, 1998) which explains the dichotomy between restrictive regulations and actual levels of migration, particularly common in states where the salience of immigration is low (Givens & Luedtke, 2004: 149). In other words, it was in the state's interest to over-legislate and under-regulate the migration system, allowing migrants access but limiting benefits.

Thus, as with other policy areas, the period from the transition and through the 1990s regarding immigration and integration policy also appeared to be characterized by consensus. This consensus was passive, however, as throughout that period, immigration was by any measure statistically negligible, and therefore what consensus existed was over a political non-issue. With increasing immigration, the year 2000 highlights the beginning of immigration as a relevant political issue, and coincides with the 'breakdown' of consensus over the policy.

This breakdown of consensus over migration policy is highlighted by a bizarre set of circumstances which led to the ruling Partido Popular (PP, the main conservative party in Spain), then a minority government, to promulgate and then end up voting against the first piece of immigration legislation to be passed since 1985.<sup>6</sup> The act as passed (supported by the Socialist party and other smaller parties) was progressive in several aspects, most importantly in the fact that it 'relativised irregularity' (Gortázar 2002: 8), meaning that it offered a series of rights to migrants, legal or illegal. This included the freedom (even to illegal migrants) to demonstrate or strike, the right to education, to family reunion, to emer-

gency public healthcare for all migrants and full healthcare for children and pregnant women. It also laid down for the first time the ability to obtain permanent residence status.

Shortly after winning an absolute majority in the elections of March 2000, the PP (as promised in its electoral programme) passed a series of amendments to the bill passed just months earlier.<sup>7</sup> It removed the concept of 'relativised irregularity', replaced with a philosophy which was meant to dissuade so-called pull factors by removing benefits, or as Gortázar argues, 'it lays down that irregularity is the criteria for excluding aliens from entitlement to certain rights' (Gortázar, 2002: 14). Since then, the Popular Party has consistently taken this security-based, law and order approach to immigration, which problematized citizenship from a perspective of legality, and migrants from a perspective of security. This perspective is based on a definition of nation – so critical to understanding ways in which the concept of integration is problematized - which is mixed and inconsistent. Balfour and Quiroga cite, for example, the 2002 Partido Popular manifesto entitled 'The Constitutional Patriotism of the Twenty-first Century', which outlines an inclusive constitutional patriotism as a basis for membership, while simultaneously incorporating older, primordial visions of a nation with a common past and identity based on 'white, Castilian speaking, Christian, imperial Spain' (Balfour & Quiroga, 2007: 116).

7. The organic law was the amendment to LODILE 8/2000
8. Programa global de regulación y coordinación de la extranjería y la inmigración en España or the Global Programme to Regulate and Coordinate Foreign Residents' Affairs and Immigration in Spain.

Institutionally, this law and order approach was signalled via a government decree in July 2000, which moved the competencies over immigration from the Labour Ministry to the Interior Ministry. The government then established what was a near-complete freeze on regularization in 2002, evidenced via an administrative order to regional delegations of the central government which proscribed regularization outside the quota system (Zapata-Barrero 2003: 5). This order appears innocuous, but it is important to factor in the dysfunctionality of the system. The 'official quota' in 2003 was 10,000 people, of which only 3,490 places were filled (Chislett 2005). By contrast, the increase in the gross number of resident aliens between 2002 and 2003 - importantly, registration of residence with local authorities does not necessitate legal status - was some 180,000 (*Instituto Nacional de Estadística*).

The PP government then implemented a new integration plan – the so-called GRECO plan<sup>8</sup> - which followed a similar logic. It offered 'integration of foreign residents that actively contribute to the growth of our country', but little in terms of precise plans, funding, or monitoring in terms of follow through (Zapata-Barrero, 2003: 22). In terms of policies of order and control, however, the plan was much more detailed, and funded. Indeed, much of the €252 million spent in 2002 and the €261 million spent in 2003 under the 'integration' plan were on operations to enforce border control, the creation of internment centres and asylum processing. In reality, actual integration policies made up only about 10 per cent of the total GRECO budget (Pajares, 2005: 133).

Since losing the elections in 2004, the Partido Popular has maintained a similar position in opposition. Most prescient is the integration policy proposal which the leader of the party, Mariano Rajoy, proffered in Barcelona in February 2008 as part of the PP's general election campaign. In it, he promised a new integration contract, heavily inspired by the French Immigration and Integration law (24 July 2006), promulgated by Nicolas Sarkozy, then Interior Minister. The contents of the contract would have formally obliged immigrants to, according to Rajoy, 'obey the laws, to respect Spanish customs, to learn the language, to pay his

taxes and to work actively to integrate himself' (Euronoticias, 6 February 2008). In return, Spanish society would give the immigrant 'the same rights and privileges as a Spanish citizen' and to respect his or her 'beliefs and customs as long as they are not contrary to any Spanish laws'.

The Socialist party (in government since 2004) has taken a different approach to the immigration question, and has promulgated one policy and one law which were both highly controversial and, importantly, implemented without consensus of the main opposition party. First, since taking over in 2004, the Socialist party has diverged most significantly with the Partido Popular over immigration policy in more clearly bifurcating immigration and integration policies. Thus, on the one hand, the Socialist government links 'migratory flows with the labour market and the promotion of the integration of immigrants', institutionalized by a decree shortly after taking office which moved much of the immigration competencies back to the Labour Ministry, while leaving security and border patrol in place within the Interior Ministry (Rodríguez 2006: 16).

9. Criticism came most vociferously from the German and Dutch Interior ministries, who argued that regularizations would only encourage increased flows of illegal migrants, and complaining that the latest Spanish regularization was a good example of why immigration policy should be Europeanized.

10. See European Council Press Release 14615/04 (Presse 321). [http://ue.eu.int/ueDocs/cms\\_Data/docs/pressData/en/jha/82745.pdf](http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/jha/82745.pdf)

Based on this approach, it proffered its most far-reaching and controversial policy in the spring of 2005. Citing a philosophy of 'no integration without legality', the government began a regularization process which eventually legalized some 700,000 irregular migrants. The process was one of the most contentious acts of the legislature, and was vehemently opposed by the opposition, and indeed at the European level as well.<sup>9</sup> Of course, it should be underscored that there is more than just altruism behind this decision, as by regularizing large stocks of migrants the Socialists served their bases (both unions and progressive interests), as well as adding fuel to the coffers for later distribution via the welfare state (€118 million were almost immediately collected in 2005 from the newly regularized residents).

Second, a link between immigration policy and the bigger issue of broad-based political polarization is a law recently passed – again, without consensus – called the Law of Historical Memory (*Ley de Memoria Histórica*, Law 52/2007). The law commits the government to supporting the identification and excavation of unmarked mass graves (mostly from the Spanish Civil War), seeks to assist those who directly suffered from state repression through recognition or financial assistance, and removes remaining public symbols of the dictatorship (such as roads and monuments to Franco-era leaders). While not a migration law *per se*, it recognizes the right of citizenship to children of Spanish citizens, regardless of whether they were born in Spain or not, and grand-children of Spanish citizens who lost or had to renounce citizenship due to forced exile. Seen as recognizing the families of mostly left-wing Republicans exiled after the Civil War, the law opens up a two-year window, from 2009 until 2011, in which any of the estimated one million eligible people (predominantly in Mexico, Argentina and Chile) may apply for citizenship in Spanish embassies (Clarín, 19 October 2007).

In terms of integration policy, a new sub-department was created by the Socialist government dedicated entirely to integration issues (*Dirección General de Integración de los Inmigrantes*), which published a statewide integration plan (*Plan Estratégico de Ciudadanía e Integración 2007-2010*). Discursively it develops a legalistic integration ethos based on equal rights and responsibilities, citing the Spanish Constitution, international human rights and European Union accords and treaties, and even openly adopting and incorporating the language on integration agreed to by the EU Council on 4 November 2004.<sup>10</sup> Possibly most importantly, the plan underscores the role of the autonomous communities in integration efforts. To that effect, the Socialist government began

dispensing money to the autonomous communities towards reception, integration and additional educational funding in 2005.<sup>11</sup> This brought central government transfers to autonomous communities regarding integration issues from €7.5 million in 2004 (under the Partido Popular), to €120 million in 2005, €180 million in 2006 and €200 million in 2007 (*Ministerio de Trabajo y Asuntos Sociales*).

It should be emphasized that, while the level of funding of the autonomous communities is a major source of distinction between the two parties' approaches while in government, the recognition of the role of the autonomous communities in reception is not new, nor is it the exclusive domain of the Socialist party. Indeed, one of the most important aspects of the first immigration law of 2000, which was not subsequently subsumed in the later amendment passed by the PP, was the fact that it explicitly implicated the autonomous communities in the integration process, through the social policies they controlled at the meso level (Aja 2003: 22). This highlights one of the only areas of consensus over the issue of integration between the two parties, which is over the question of 'who' should be doing the heavy lifting related to integrating of immigrants. In both cases the 'who' points towards the autonomous communities.

11. The official title of the fund is the *Fondo de apoyo a la acogida y la integración de los inmigrantes así como para el refuerzo educativo de los mismos*

12. Indeed, even as early as 1930 the number of residents of Catalonia born outside the principality was nearly 20 per cent, and with the large scale intra-Spanish migrations which took place from southern and rural Spain in the 1960s, this number jumped to 37.5 per cent by 1970 (Corbera 2005).

### Catalonia's National Project – *Fer País*

Problematizing the nexus of immigration, integration and the welfare state at the meso level has received comparatively little attention compared to national model approaches (for an exception, see Ireland, 2004). While arguably important in any context, it is particularly critical in the case of Spain, for the reasons articulated earlier in this paper. Catalonia is a particularly interesting case in point, as it is an autonomous community which demonstrates both distinct demographic realities to its rump state in addition to different historical models of inclusion.

Catalonia has experimented with alternative forms of inclusion and membership dating back to the late 19<sup>th</sup> century, when political forms of Catalan nationalism were first articulated. While the sub-strands of Catalan nationalism are too great to cover in this paper – they span a wide range of ideologies from progressive to traditionalist – broadly speaking, nationalist discourse understands Catalonia as a nation, bound up in the Spanish state, an administrative structure which does not reflect the realities of the many nations that the Iberian peninsula encompasses (Fernández et al, 1983: 27-9). Demographically, Catalonia also presents a strong contrast to much of the rest of Spain over the last century, having been during that time period a net importer rather than an exporter of human capital.<sup>12</sup>

Of course, given the nature of the Francoist regime, regional integration policies to recognize distinct models of inclusion would have been considered a contradiction in terms in a supposedly uni-cultural state, and the suppression of cultural markers which questioned this notion, particularly in the Basque Country and Catalonia, obscured these 'theoretical' complications. Below the level of official Franco-era rhetoric, however, the perception among many in Catalonia of a 'differentiated reality' (*fet diferencial* in Catalan), in combination with the extraordinary levels of immigration during the 1960s, led to Catalan political activists (later politicians) to consider the question of integration well before the question was problematized at the Spanish level.



This fact is important because while the nature of immigration post-2000 is quite different from that of the 1950s and 60s in Catalonia (southern Spanish migrants rather than what are now predominantly South American and Maghrebi immigrants), these earlier migrations inspired nationalist activists such as Jordi Pujol (later Catalan President) to begin talking and writing about issues of integration as early as 1954. During the transition to democracy, Pujol himself became leader of *Convergència i Unió* (CiU) - a coalition of two parties formed in the wake of the democratic transition to represent a stable, centre-right, nationalist presence with the declared goal of revitalizing post-dictatorship Catalonia – which later governed Catalonia from 1980 until 2003.

13. Immigrants in this context refer to any 'newcomer' to Catalonia, but in the early days this was more directed to non-Catalan Spanish citizens, as their numbers were far higher than non-Spanish immigrants.

14. This represents a strong majority within the Catalan political system, as at the autonomous level the best results the PP has attained until now is just over 13 percent, which they reached in 1995.

Pujol himself, and by extension his party in government after 1980, developed an approach to integration as part of the construction of a Catalan national project (referred to in the Catalan vernacular as *fer país*) which was couched in an overtly civic and inclusive language which invited both autochthonous and immigrant communities to take part.<sup>13</sup> Defined as a 'persuasive assimilation' (Balcells & Walker, 1996: 153), it was symbolized by the definition the Catalan government used to define what it was to be Catalan, which 'is anyone who lives and works in Catalonia, and wants to be Catalan' (Pujol, 1980). The model as developed maintained a strong level of continuity – and more importantly, a strong level of institutionalization - in the early years of democracy due to the length that the nationalist federation controlled the *Generalitat* (the Catalan government).

While dominating the rhetoric over integration due to its institutional position at the head of the government, it should be said that CiU did not have sole proprietorship over the concept of civic-based nation-building as it pertained to southern Spanish migrants in Catalonia. This is important, for while CiU's discourse on integration was dominant due to its institutional position, the broader contours of a civic approach to nation-building were shared by most within the Catalan party system, the PP being the only party which was excluded.<sup>14</sup> Together, as Balfour and Quiroga argue, 'Key in both conservative and leftist strategies was the idea that Castilian-speaking immigrants could and should be integrated into the Catalanist movement' (Balfour & Quiroga, 2007: 133; Balfour, 1989).

Officially, then, Catalonia's national project excluded no one *a priori*. But while predominantly civic in nature, it also imposed a large measure of assimilation into the nation-building process. Reviews of this approach done at the time accord with this characterization. Apap argues that the Generalitat's approach in the 1990s was characterized by 'the politics of *ius soli*. According to this principle, the children of immigrants are considered Catalans, and receive compulsory schooling in Catalan, and measures to promote their integration (a principle that also applies to other Spaniards)' (Apap, 1997: 152-3). Recognizing the lack of competencies in legal citizenship, others have preferred to refer to this approach as *ius domicili*, maintaining the spirit of *ius soli* without implying that the Generalitat had the necessary competencies as it applies to legal interpretations of citizenship (Castiñera, 2007: 153).

With regards to the most recent migration flux of the last decade – particularly with regards to the major differences in the origin of the new migrants compared to those of the 1960s - Catalonia's brand of assimilation has demonstrated certain limitations, particularly the way in which it depended on a fairly homogenous set of migrants not strongly

different from the autochthonous population. As Castiñeira argues, the difference between autochthones and non-Catalan Spanish migrants was neither racial nor religious nor political. Instead it was almost exclusively based around language and culture (Castiñeira, 2001: 156). This is important in the context of the international migratory shifts which have affected Catalonia, as the percentage of non-Spanish citizen residents of Catalonia has risen from 2.9 per cent in 2000 to 13.5 per cent in 2007 (*Instituto Nacional de Estadística*).

On the one hand, through the use of two separate language laws (1983 and 1998), the Generalitat has successfully made Catalan the vehicular language of compulsory schooling in Catalonia. It has also not been, contrary to many accounts, a strongly controversial policy within Catalonia. For example, the leader of the PP in Catalonia in the early 1990s, Aleix Vidal Quadras, fought continuously with the Catalan executive over language policy, and was eventually removed by the PP as leader of the Catalan branch in 1996 for his overly aggressive on the policy. In September 2000, as MEP of the European parliament, he made an attempt to have the European Parliament formally denounce the Generalitat's linguistic policies. Not only was his request rejected by the European parliament – it was labelled as both too general and too political – but his complaints about the repression of the Spanish language in Catalonia do not stand up to actual public concerns in Catalonia. To give one example, a study done in 2003 placed 'linguistic problems' as the 12<sup>th</sup> most important problem concerning Catalans, mentioned by only 3.6 per cent of those interviewed (*El País*, 9 November 2003).

On the other hand, the Catalan model did not firewall the issue of religion to the extent that it was done in other 'assimilationist' contexts such as France. Rather, the CiU administration doubled down on an education system that – for reasons of purposeful underinvestment by the Franco regime which devolved much of the education sector to the Catholic Church - historically maintains a publicly-funded (mostly Catholic) private sector of schooling on a significantly higher scale than other autonomous communities (40 per cent of compulsory-age students attend publicly-funded private schools in Catalonia, see Villaroya, 2002: 25). Indirectly supporting these confessional schools was an attempt by CiU, according to one civil servant in the office which coordinates links between the Catalan government and religious congregations, to make Catholicism remain a reference point for the next generation of Catalans, while also respecting other religions.<sup>15</sup>

This approach complicated the issue of integration as it pertains to Muslim immigrants to Catalonia, and highlights more broadly the delicate balancing act sought by the nationalist federation.<sup>16</sup> Thus, on the one hand, CiU's immigration plan of 2001 starts from a 'post-national' (Soysal, 1994) position, underscoring Catalonia's support of the Universal Declaration of Human Rights, right to health care, education, housing, right of association, protest, meeting and labour rights.<sup>17</sup> But it also underscored that the *via Catalana* also meant that 'foreign citizens' must understand and accept that while Catalonia forms part of the Spanish state, it also constitutes a nation with its own identity. This approach is problematized in the 2001 plan as a balance between 'social cohesion' and 'diversity', based on 'the defence of culturality and an attitude of respect'.

These strongly assimilationist aspects of CiU's self-described civic model at times moved into ethnic differentiation. While the model was always sold as one that did not problematize people as *a priori* 'insiders' or 'out-

15. Civil Servant. Tècnic de Direcció General d'Afers Religiosos. Generalitat de Catalunya. Personal Interview. 26 September 2005.

16. For good coverage of the issue of integrating Muslims in Catalonia, see Castilla 2007.

17. The plan is titled the *Pla Interdepartamental de Immigració 2001-2004*. An earlier plan, the *Pla Interdepartamental de Immigració 1993-2000*, sought to coordinate actions between governmental departments, and did little to outline a philosophy towards integration and citizenship not already practiced under the *fer país* rubric.

siders' - particularly compared historically with the Basque Country - the line became blurred when applied to Muslim immigrants as opposed to Andalusians. As the 2001 plan states, 'Islamists do not strictly separate the religious sphere from that of social sphere (*manifestations*). The social obligations of Islamic law (sharia), polygamy, the subordinate position and the repudiation of women enter in conflict with occidental-Western democratic pluralism' (Castilla, 2007:81). The quote shows the government's willingness to put boundaries on the 'limits' of plurality in Catalonia, while doing so in a fumbling manner which indirectly stereotyped Muslims as Islamists, underscoring the government's inexperience in assimilating Catalonia's 'new' migrants with vastly different cultural roots than the previous migratory inflows.

18. Interview with Civil Servant. Àrea de Participació i Ciutadania, Secretaria d'Immigració. Generalitat de Catalunya. 29 September 2005.
19. Somewhat ironically, Lucía Figar, then the PP Consejera de Inmigración (head of the immigration department) in the Community of Madrid, criticized the CiU plan at the time as 'Rather than a way of measuring integration it looks like a human rights ration card' (El País, 7 February 2008). It is ironic because her party offered a similar proposal two years later.
20. *Pla de Ciutadania i Immigració 2005-2008*
21. See European Council Press Release 14615/04 (Presse 321). [http://ue.eu.int/ueDocs/cms\\_Data/docs/pressData/en/jha/82745.pdf](http://ue.eu.int/ueDocs/cms_Data/docs/pressData/en/jha/82745.pdf)

The final piece of the puzzle which demonstrates the difficulty with which CiU's model struggled to adjust to contemporary migration flows is related to the level of underinvestment in the integration model. Neither the 1993 nor the 2001 immigration plans under the CiU government included a budget, or methods to measure the plans' 'success' or 'failure'. The *Secretaria per a la Immigració*, the Catalan government office which deals with integration issues is comparatively undermanned as well. One high level civil servant at the *Secretaria* compared Quebec's immigration offices, which maintains a staff of approximately one thousand people, with the twenty people which were working full time in his office - asking himself rhetorically in an interview how much they could reasonably be asked to do with this type of funding.<sup>18</sup>

In opposition since 2003, CiU has also proffered more populist policy proposals towards national construction, while following the same assimilationist rhetoric. Most notably, the party launched an initiative for the 2006 autonomous elections which was also very close in style and substance to the aforementioned Sarkozy law of the same year, later copied by the Partido Popular in the general election campaign of 2008. Similar to the French law, the CiU proposal differed mostly in the fact that it was a Catalan national plan, which therefore had to take into account the competencies held by the Generalitat. The proposal came in the form of a promise that if elected, the federation would propose a draft law to the Catalan parliament which would create a voluntary contract for immigrants, linking knowledge of the Catalan language and culture to speedier access to non-essential services.<sup>19</sup>

The discourse of the first plan offered by the left-wing tripartite government, in power since 2003, has changed the tone somewhat, if not the baseline, of CiU's approach to national integration.<sup>20</sup> Discursively, the new government (whose President, José Montilla, is a member of the Catalan Socialist party) copies the central government's 'post-national' support of international human rights and European Union accords and treaties, also openly and fully adopting the language agreed to by the EU Council of Ministers on 4 November 2004.<sup>21</sup>

More importantly, while maintaining support for Catalonia's language policy and other more long-standing policies of Catalan national integration, it moves away from the defensive language referred to in the earlier CiU plans, instead attempting to disarticulate the notion of citizenship from nationality by focusing on plurality, equality and *civisme* (roughly translated as community spirit or civic engagement). Most important for its future functionality, it was the first time a Catalan integration plan contained either a budget or indicators to measure progress over time (Zapata-Barrero, 2007).

Importantly, however, Catalan nation-building did not stop with accession of the tripartite government in 2003. What has changed, however, is that the current Catalan executive is now working under a new legal relationship with the state, a function of the creation of a new Catalan *estatut* (the law which defines the Catalan institutions and its autonomous competencies, as well as Catalonia's relationship with the central government), which was passed by the Spanish Parliament on 30 March 2006, and ratified by referendum in Catalonia on the 18 June 2006. For the first time, immigration was included in a statute of autonomy in Spain.<sup>22</sup> The article in the statute which references immigration assigns *acollida* (literally, 'reception') to Catalan government, as well the executive powers over the issuance of work permits.

22. Article 138 of the Catalan Statute of Autonomy (2006)

This power has, in turn, been used to develop a draft law, currently being considered in the Catalan parliament, which deals exclusively with reception. The draft bill (*Llei de primera acollida de les persones immigrades i retornades a Catalunya*) would create a broad-based service - taken up on a voluntary basis - to assist in immigrant insertion into Catalan society based around three axes: knowledge of the Catalan language, job training and assistance, and knowledge of local society and customs. This would be done by Generalitat-funded services, operated and run by local governments across Catalonia.

If the law is approved, this would mark a major development in Catalan integration policy, moving away from an adapted version of an approach designed for non-Catalan Spaniards, to one which truly differentiates and problematizes non-Spanish immigrants in their own right. Most importantly, it would move Catalonia away from the Generalitat's historical approach under CiU which endeavoured to create as few immigrant-specific services as possible (under the rubric of equal treatment of all residents, regardless of citizenship). In its place, it would create a near-universal (if optional) service, binding municipal governments in Catalonia into playing a much more active role in national construction (defined by the Generalitat) via public policy intervention at the earliest stages of immigrant arrival.

### Conceptualizing Integration Policy in Madrid: From Casas Regionales to Casas Nacionales

As it pertains to early studies on immigration in Madrid, prior to 1970 there are only passing references to the few migrant groups which were large enough to even be referenced as integral communities, such as (relatively small) groups of Cubans who had arrived after Fidel Castro came to power, or to Equatorial Guineans who arrived in Madrid before 1968, when Equatorial Guinea was still a Spanish colony (Jiménez 1993: 37). As in Spain overall, that reality has changed drastically over the last eight years in the autonomous community of Madrid, as the immigrant population has increased dramatically, from 3.2 per cent in 2000 to 14.3 percent in 2008.

Unlike Catalonia, however, 'national' identity in Madrid is directly tied to the majoritarian, Castilian identity, referred to more commonly as 'Spanish'. Thus, while Madrid also received its share of rural migration during the 1960s, no correspondingly exclusive - in the sense of a purely Madrileño - integration response was ever seriously considered from a public policy perspective, and none implemented, even after the transition to democracy. Indeed, the autonomous community of Madrid is a recent invention itself (1983), a region which encompasses an area surrounding the city of Madrid, historically considered part of Castile. Therefore, the issue of cul-

tural integration was not identified as a public policy issue by the CAM<sup>23</sup> in the early days of its existence, until a noticeable growth in non-Spanish immigrants began to arrive towards the end of the 1990s.

Because of this new influx, in 1997 a decision was made by then PP President of the CAM, Alberto Ruiz-Gallardón, that a regional plan to coordinate inter-departmental responses to immigration was needed. This prompted the CAM to create the Regional Immigration Forum (*Foro Regional para la Inmigración*), a cross-sectoral, inter-departmental working group. The recommendations which came from this group led to the creation of the Regional Office for Immigration (*Oficina Regional para la Inmigración or OFRIM*), a corporate body whose intention was to bring in public administration and relevant non-governmental actors to the job of integrating immigrants into Madrileño/Spanish life, which published the first immigration plan for Madrid in 2001.<sup>24</sup>

The first plan was not wholly an 'integration' plan per se. Rather, it was more of an operational plan to coordinate interdepartmental policy, in addition to liaising with civil society. Its philosophy towards integration remained vague, incorporating language common to all Spanish and autonomous integration plans, which was to ensure that foreign residents attained the same rights, obligations and opportunities as Spanish citizens living in Madrid. Based on a self-described 'intercultural' approach to integration, it recognized the benefits of cultural exchange and ethnic and cultural diversity, based on tolerance, respect and mutual adaptation. The second plan, published in 2006 under the auspices of the new PP President of the CAM, Esperanza Aguirre, detailed this approach more concretely, based around three main goals: equality of opportunity, cohesion and co-responsibility (Figar, 2006).

Moving beyond rhetoric to reality, the most striking difference between Madrid's integration approach and that of Catalonia is the position it takes on services towards immigrants, and its public policies towards the construction of identity. First, in terms of services towards immigrants, both of Madrid's plans explicitly focus on *not* creating parallel structures and avoiding segregating groups based on ethnic or cultural differences. However, although both plans argue that even positive discrimination leads to unequal development and social fragmentation, the most distinguishing facet of Madrid's approach was the policy of creating immigrant-specific services, based around the creation of Immigrant Social Assistance Centres (*Centros de Atención Social a Inmigrantes* or CASIs), envisioned as assistance centres for the most vulnerable immigrants.

First envisioned in the CAM's immigration plan of 2001, CASIs were geared towards responding to the 'special needs that immigrants have' during their initial period after arrival in Spain.<sup>25</sup> CASIs offer group-specific welfare state services to immigrants in early stages of arrival in Spain, particularly those that the regional government considers vulnerable. Their work can be divided into three levels. First, they receive individuals on a referral-only basis, from municipal social services. Second, they organize group-level orientation regarding legal services, housing and employment. Third, they work to integrate social services in respective neighbourhoods via '*mesas de convivencia*', essentially monthly planning meetings between local NGOs and organizations with civic interests to coordinate, share information and planning. CASIs employ psychologists, social workers, social educators, and intermediaries who offer counselling services, legal advice and job training. One important caveat to the CASIs is that there seems to be a deliberate trend by the CAM to eliminate, or at least drastically curtail, their use. Thus,

23. All references in this work to Madrid (or alternatively CAM) are referring to the region / autonomous community, and not the city/municipality of Madrid, unless stated otherwise.

24. The first plan published by the CAM is the *Plan Regional para la Inmigración de la Comunidad de Madrid 2001-2003*, The second plan is titled the *El Plan de Integración 2006-2008 de la Comunidad de Madrid*

25. *Plan Regional para la Inmigración de la Comunidad de Madrid 2001-2003*, p. 21.

the number of CASIs has gone from 16 in 2003 to the current number of 11.<sup>26</sup> At the time of writing, there is a tender out for 6 new centres, which will replace all remaining CASIs as their contracts expire during the course of 2008. These new centres will have similar budgets and manpower, but with only 6 CASIs functioning, each will have to cover 11 municipal districts instead of the current three.

Second, in terms of public policies towards integration in the form of identity construction, new centres were created in 2006 called CEPs, or Centres for the Participation and Integration of Immigrants (*Centros de Participación e Integración de Inmigrantes*). As the regional President Esperanza Aguirre explained, CEPs allow immigrants to share 'the constitutional values that Spanish citizens have enjoyed' with madrileños, while the centres gave Spaniards the opportunity to better understand the history, traditions and culture of immigrants to Spain (Agencia EFE, 13 February 2008). Rather than a full complement of services geared towards the most vulnerable immigrants (arguably the main focus of the CASIs), CEPs offer services to immigrants in a more stable situation. While both offer some overlapping services (such as legal education), CEPs are more distinguished by their focus as an inter-cultural bridge, encouraging mutual understanding between autochthonous and immigrant communities. As opposed to CASIs, they also see clear signs of strong investment and increasing numbers, which have increased from 0 in 2005 to 12 in 2007, projected to rise to 19 by 2010.

There are two related characteristics related to CEPs which help to highlight the PP-led autonomous government's conceptualization of integration and citizenship. First, the terminology and function of these new centres - referred to at the inception of the programme as *casas nacionales* (national houses) - in fact closely resembles an older form of immigrant reception created in Spain over a century ago.<sup>27</sup> The goal of *casas regionales* (regional houses) was to offer a base for those who had recently migrated from different parts of Spain to urban areas such as Madrid and Barcelona (as well as to former colonies in Cuba and Argentina) during the various migration waves since the turn of the last century. The first *casa regional* was created by Galicians in colonial Cuba (*Centro Gallego de La Habana, 1879*), and the first on the peninsula was formed by Asturian immigrants in Madrid (*Casa Regional de Asturias, 1887*).

These first *casas regionales* in urban areas in Spain functioned as pre-welfare state 'first reception' centres, meant to assist recent arrivals with questions related to housing or illness. Based on family and community ties, they were originally territorially defined in a relatively narrow sense, at the provincial or even county level.<sup>28</sup> They were also meant to combat the sense of homesickness by playing up the most traditional aspects of their respective regions, and as the 'casas' have lost this primary role in social assistance; this has become their primary function. They are, thus, now almost exclusively defined on a regional rather than provincial level, and function as purely social and cultural organizations, decorated with the flags, memorabilia and pictures of the respective region. Thus, while out of the social assistance business, they are still critical to cultural reproduction (Jiménez, 2004: 58-60).

This coincidence should not be read as superfluous or coincidence. In many ways, the new CEPs mimic that approach, and can be interpreted as modern manifestations of the historical Spanish concept of *patria chica*, a reference to the uniquely intense loyalty that Spaniards traditionally felt to their village or region. Historically, the concept of *patria chica* was used to both recognize this manifestation, while simultane-

26. Comunidad de Madrid 2008. La Comunidad invierte 1,7 millones para mejorar la atención a los inmigrantes más necesitados. Consejería de Inmigración 28 February 2008.

27. During interviews (February 2008), officials in the *Consejería de Inmigración* insisted that they were moving away from the terminology of 'casas nacionales', but the term was still used on the CAM's website as of March 2008.

28. Interestingly, the governmental relationship with the *casas regionales* has followed the same cognitive lines. For example, only in 2004 did the Catalan government shift the responsibilities of relations with the *casas regionales* in Catalonia (including grants) from the Welfare department to the Culture department (El País, 25 January 2004).

ously shifting the relevance of alternative, peripheral nationalisms. As Núñez Seixas explains, some pushed 'regional identity and regionalism as a step in the process of consolidating *the nation* as a whole' (Núñez Seixas, 2001b: 486). Thus, loyalty to the *patria chica* was compatible - indeed part and parcel with - the *patria grande*, or Spain. In other words, one led to the other. 'Adolescent love of the patria chica' explained the Conservative politician Antonio Maura, Prime Minister of Spain on five separate occasions from 1903 to 1922, 'matures in the adult citizen into love of country' (Carr, 1980:31).

29. Such as the Cruz Roja (Red Cross), CEAR or Provienda. Some CASI have been run by for-profit companies, such as Grupo 5, S.L.

This approach can be seen in the nomenclature of the CEPs, referred to as, for example, the *Centro Hispano-Boliviano*, *Centro Hispano-Rumano*, *Centro Hispano-Marroquí*, etc., and highlight a form of Spanish interculturalism. The approach conceptualizes countries of origin as *patrias chicas*, while emphasizing the common Spanish identity as all immigrants' *patria grande*. With investment shifting from CASIs to CEPs, it appears that the CAM has decided to move forward and further institutionalize this intercultural approach to integration. The outlines of this approach can be seen in support of other policies beyond the CEPs, such as the *mundialito*, an amateur, World Cup-style football tournament organized since 2002 with the cooperation and financial support of both the CAM and Madrid city hall (and along with large corporate donors such as Telefónica and La Caixa), which fields teams of immigrants based on national origin.

What links both CASIs and CEPs is the manner in which the CAM has organized and financed these centres. In both cases, the government has offered tenders and sub-contracted the organization and day-to-day operations of the centres to outside organizations. This follows closely with the Partido Popular's self-described liberal approach to politics, and has allowed the CAM to privatize areas of welfare state management which it might not otherwise be able to do with integrated services. A noticeable trend, however, seems also to be that while many of the initial CASIs were subcontracted to organizations dedicated either exclusively or largely to migration issues,<sup>29</sup> contracts for new CEPs have been awarded to organizations with broader remits, linked to groups which tend to be more ideologically close to the Partido Popular.

Indeed, recent tenders to run three of the newest CEPs - the CEPI Hispano-Americano, Hispano-Colombiano, and Hispano-Peruano - were all awarded to the *Fundación Social Universidad Francisco de Vitoria*, a foundation which is a member of the order of the Legionaries of Christ, a missionary congregation within the Catholic Church (*La Republica*, 11 December 2007). A fourth centre, the CEPI Hispano-Rumano, was tendered to the *Fundación Iberoamericana Europa-Asociación Ares Rumania*, whose President, Pablo Izquierdo, is a former MP for the Partido Popular.

Having been in the opposition since this latest migration wave began, it is difficult to speculate as to exactly how the Socialists in Madrid would change the approach towards immigrant integration in Madrid. What is clear is that they have been critical of the creation of both the CASIs and the CEPs, in particular for the fact that both create parallel services. The then-head of the Socialist party in the regional parliament, Rafael Simancas, argued that social services should be the same for residents of the CAM, with equal rights and equal responsibilities, without discrimination or privileges (*Madridero*, 26 March 2007). Francisco Contreras, Socialist MP in the Madrid Assembly, also criticized the PPs approach

while highlighting the Socialist party in Madrid's philosophy on the issue, 'less parties, less populism, less...Legionaries of Christ; and more public policies in housing, in schools, and more subsidized meals, which are the true instruments of integration' (Servimedia, 9 October 2006).

## Conclusion

This paper has argued that the lack of a coherent Spanish model of integration is a function of two linked dynamics: a lack of consensus between the two major statewide parties over the issue, and the nature of Spain's 'multinational' character, institutionalized via a decentralized, quasi-federal system.

At the national level the PP has maintained a fairly consistent policy position both pre- and post-2000. Its rhetoric is strongly security-based, but in terms of application it can be more aptly described as a market-based approach which allowed the incorporation of increasingly large numbers of irregular migrants into the informal economy, feeding the agricultural, tourism and until recently booming construction sectors. It espouses a civic-based conceptualization of constitutional patriotism, but its rhetoric still often refers to historical and primordial conceptualizations of the Spanish nation. The recent integration contract proposal changes that philosophy very little, and has populist undertones more representative of a party in opposition than a party in power. By contrast, the Socialist perspective since 2000 closely follows the ethos of the current Prime Minister, José Luís Rodríguez Zapatero, who took control over the party the same year. Since taking over in 2004, the Socialist government has increased financial support for the autonomous communities towards integration, and at the central government level, maintained a legalistic interpretation of integration based on worker and human rights – 'no integration without legality' – most notably via the massive regularization instituted in 2005.

Without consensus at the central government level over immigration and integration, and given the state of national integration described earlier in this essay, the autonomous communities have become the engines of public policies towards the integration of immigrants in Spain. The subsequent philosophy of the respective regional policies towards immigrants largely coincides with the level of political and social integration with the centre.

In Catalonia, the CiU government largely transposed its existing nation-building project, originally geared towards non-Catalan Spanish citizens, towards non-Spanish migrants that began to arrive in larger numbers around 2000. This largely civic, assimilationist policy proved more easily adaptable in some areas (language) than in other areas, where the policy has caused tension (religion). The new reception law, promulgated by the Socialist-led tripartite government, could mark a turning point in this project. If passed, it will involve a much higher level of direct implication of the Catalan government (both for the Generalitat and municipal governments) in integrating non-Spanish migrants, moving the Generalitat from a more regulatory role to an active, participatory role. That said, the philosophy, and differentialist nation-building project, will remain.

The autonomous community of Madrid has also begun to develop an approach based on a historical model, in this case the reference point is the *casas regionales*, a pre-welfare state group of regionally-based civic centres used by rural migrants as reference points for information, assistance and



maintaining a level of contact with the region of origin. Philosophically, this intercultural approach assigns countries of origin as *patrias chicas*, while emphasizing the common Spanish identity as all immigrants' *patria grande*. The conservative government in Madrid has also used this approach to strengthen support for liberal policies of privatization, as well as increasing institutionalized links with the Catholic Church.

Interestingly, this comparative perspective on integration policies demonstrates two curious and parallel phenomena. On the one hand, it is clear that the conceptualization and construction of membership and citizenship in the autonomous communities of Catalonia and Madrid are quite distinct, and reflect relative levels of integration with the centre. While one approach seeks to incorporate migrants into an assimilationist national project, the other seeks to incorporate migrants via an intercultural approach which assigns Spanish-ness as an overarching umbrella identity, encompassing national origin via a historical conceptualization of the *patria chica*. At the same time, the tools used by the communities towards achieving these very distinct goals seem to be converging. While Catalonia started from a position of a near-total ban on differentiated services, the CAM started by giving very specific, intensive and targeted services towards the most vulnerable, via immigrant-specific offices (CASIs). Ironically, both seem heading towards approaches which offer similar services (including language, acculturation, legal and practical counselling) to similar profile migrants (new arrivals in a moderately stable status).

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# PROMOTING CITIZENSHIP: THE CHOICES FOR IMMIGRANTS, ADVOCATES, AND EUROPEAN COOPERATION

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## **Introduction. The national and the foreigner: can you tell the difference?**

The meaning of what it is to be a “national” or a “foreigner” in a country is defined through an unequal distribution of rights and responsibilities, above all the right to equal treatment under the law. The national and foreigner often share the same responsibilities,<sup>1</sup> whereas the full bundle of citizenship rights have traditionally been granted to the national, with as few exceptions as possible in a liberal democracy,<sup>2</sup> and denied to the foreigner. The full rights associated with citizenship can be classified as:

- Economic (full access to private and public sector employment)
- Social (education, family, health, housing, and welfare benefits)
- Civil and political (among others, the right to vote and stand in elections at all levels)
- Residence (the right to reside and full protection from expulsion)
- Mobility (the right to freely enter the country, even after long periods of absence)
- Equal treatment within the country and across the European Union<sup>3</sup>

Nationality had provided a thick, solid border around the rights of citizenship. Indeed, nationality and citizenship are used so interchangeably in a number of European languages to the point that most people cannot tell the two terms apart.

Two legal trends are decoupling this exclusive link between nationality and citizenship, as European nation-states have transformed into countries of immigration (Joppke, 2007a; Bauböck, 2005). The acquisition of nationality by foreign residents has been made possible and easier. Faced with settled foreign populations living outside the bounds of citizenship, liberal democracies have taken steps to facilitate naturalisation procedures for the first generation and, in many cases, introduce *ius soli* provisions for the native-born second or third generation. A parallel—perhaps paradoxical—trend has seen countries of immigration “de-bundling” many citizenship rights from nationality. This idea has been promoted through EU cooperation on integration, especially the 1999 Tampere Presidency Conclusions and the later concept of “civic citizenship.” Legally-resident third-country nationals are granted equal

1. For example, all residents must attend compulsory education, pay taxes, respect the Constitution and the rule of law, etc. Exceptions are the more rare obligations for nationals to vote (i.e. Australia, Belgium, and Switzerland) and do military or civil service (i.e. Germany) as well as the more common obligations for foreigners (particularly non-EU nationals) to prove economic resources, adequate housing, language knowledge, or “integration” as conditions to access or a renew certain residence statuses.
2. Civil rights and enfranchisement movements are still alive today. On the political front, examples are the rights of (ex)felons (See the US Right to Vote Campaign of the ACLU, NYU Law School, and the Sentencing Project), voting age (as of 2007, 16 in Austria, the first country in the EU) and the citizenship rights of emigrants (See the 2007 Spanish Historic Memory Law).
3. The equal treatment of citizens within a country is most often guaranteed in national Constitutions. Within the EU, protections against discrimination on the grounds of nationality are contained in Preamble 20, Directive 2004/38/EC of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States.

rights and responsibilities on the basis of their residence status—and not their nationality. The “civic citizenship” framework can be applied to all types of residence statuses, or it can be limited to a certain few: long-term residence as created by Directive 2003/109, recognised refugee status, or, more recently, a highly-skilled work permit. Taking these two trends together, the traditional border between “national” and “foreigner” has become more porous and thin. It is easier to go from foreigner to national, but the transition is less meaningful, since the law expects the “civic” and “national” citizen to have the same rights and be treated the same in many areas of life.

4. The MIPEX results are fully available and searchable at [www.integrationindex.eu](http://www.integrationindex.eu). The project, co-managed by the Migration Policy Group and the British Council and co-financed by the European Commission, aims to promote a better informed European-wide debate on integration policies. To this end, MIPEX generates a comparative, quantitative, and updated database on the legal provisions across Europe, as of March 2007, in six areas of integration: labour market access, family reunion, long-term residence, political participation, access to nationality, and anti-discrimination. The MIPEX normative framework operates under the highest European standards on legal integration, which are located in EC directives, Council of Europe conventions, EC Presidency Conclusions, proposed Commission directives and recommendations from EU-wide policy-oriented research projects. A country's policies can be compared on 142 policy indicators over time and to the normative framework, other national policy areas, policies in other countries, and European averages.
5. Bulgaria and Romania were not EU Member States at the start of the MIPEX research process.

What choices for citizenship are Europe's countries of immigration opening to their new “citizens-to-be” is a question touching many currents in the integration debate. The academic literature disagrees on the extent to which states are restricting or facilitating nationality and whether Europe is converging or diverging; whether civic citizenship is a liberating concept for all residents or a discriminatory one for certain statuses; and whether long-term residence is an attractive alternative to national citizenship or just a “second-class citizenship.” Whatever the outcome, this scholarly debate reminds Justice and Home Affairs ministries that naturalisation is part of their core business and often one of their key indicators for success in integration policy. As a consequence, the significantly low naturalisation rates across the EU are cause for concern among citizenship stakeholders, who are looking for the possible explanations in the different national conditions for civic and national citizenship. The debate on citizenship policies and outcomes in Europe is of natural interest to the European institutions, which are looking for windows of opportunity for greater European cooperation on free movement, immigration, integration, and, perhaps one day, naturalisation. These legalistic questions are most relevant for immigrants themselves who are asking whether applying for long-term residence or nationality guarantees them citizenship rights and equal treatment in their country of residence.

This article presents the citizenship choices in the different EU Member States for non-EU residents who want to participate in society with equal rights and responsibilities. An assessment of the state of national and civic citizenship in Europe is made possible by the 2007 *Migrant Integration Policy Index (MIPEX)*<sup>4</sup> and the results of its comparative policy indicators. The first part of this article compares the EU-wide impact of the two outlined legal trends towards facilitating access to nationality and long-term residence (as civic citizenship). It finds that Community law, in the few areas where it went beyond “minimum” standards, has had a more positive EU-wide impact on promoting long-term residence than similar “soft” trends have had on promoting facilitated naturalisation. Though what states do to facilitate long-term residence often has little to do with their nationality policies, European cooperation on civic citizenship may be causing negative spillover effects on eligibility provisions for naturalisation and on the imposition of conditions in the integration legal framework.

The second part of this article uses country clustering for 25 EU Member States,<sup>5</sup> Norway, Switzerland and Canada to present a citizenship continuum. Both, one or neither of these two trends are reshaping not only the border between the national and the foreigner, but also the state's overall concept of how immigrants are “citizens-to-be.” This process of reshaping is opening new gaps and new opportunities for policy improvement, which this article explores as priorities for national advo-

cates and as strategies for greater European cooperation on civic and national citizenship. The European Union and Council of Europe could promote the acquisition of nationality through renewed standard-setting on eligibility for nationality and dual nationality; deeper discussion and cooperation on the implementation of conditions for acquisition in EU “civic citizenship” law; and a European-wide naturalisation campaign supported by the EU’s practical infrastructure on integration.

### Expanding citizenship in an age of migration: comparing long-term residence and access to nationality

The first impression from the 2007 MIPEX overview is that the EU Member States are more likely to facilitate integration through long-term residence rather than access to nationality. The EU Member States received their highest average on the first and their lowest average on the second. Secondary analysis of the results confirmed that there is almost no correlation between a country’s scores on the two strands (Huddleston & Borang, 2009). A country may have inclusive policies for migrants becoming long-term residents, but that has little to do with whether or not they facilitate their becoming national citizens. This is especially true of nationality policies in Central Eastern Europe. In that region, nationality appears as a policy area apart from the other areas of foreigners’ law that are often linked to integration goals. The high average on long-term residence belies the fact that long-term residents in most EU Member States do not enjoy the full rights of civic citizenship. The EU average for political participation policies was just as low as for access to nationality. That is, many of the EU Member States that facilitate long-term residence will grant immigrants civic citizenship rights in many areas, with the major exception of political life.

National provisions on long-term residence and naturalisation can be compared on three common elements to the two statuses: eligibility, conditions for acquisition, and security of status. The fact that EC Directive 2003/109 fixed a maximum five-year eligibility requirement for long-term residence has had a more positive EU-wide impact than the oft-cited trend in naturalisation towards a similar five-year period. Eligibility criteria emerged as the major difference between long-term residence and access to nationality scores. The eligibility requirements for long-term residence were found to be significantly more inclusive and similar across Europe than those for naturalisation, which are still national areas of competence. Few states apply the same five-year eligibility period for ordinary naturalisation as for long-term residence. Rather, these requirements vary across the EU and, overall, received some of the lowest scores on MIPEX.

Not only has this maximum EC standard on long-term residence had a more positive impact on national legislation than the similar trend on naturalisation, it may be counteracting that trend. The negative spillover effect is that EU Member States, especially those in Central Eastern Europe, are making the acquisition of long-term residence a condition for eligibility for the acquisition of nationality. Unfortunately the Commission suggested this two-step process in its 2000 and 2003 Communications: “Enabling migrants to acquire civic citizenship after a certain period of years would help many immigrants to settle successfully into society. It could also be a first step in the process of acquiring the nationality of the Member State concerned.”<sup>6</sup> This reading effectively raises what were facilitated residency requirements for naturalisation. In practice, authorities either restrict eligibility to long-term residents or count the years only

6. See *Communication on Immigration, integration and employment*. Brussels: European Commission, COM(2003)336, p. 23. Similarly, See *Communication on a Community immigration policy*. Brussels: European Commission, COM(2000)757, pp. 19-20



as a long-term resident towards the requirement. Either way, this interpretation of facilitating eligibility for long-term residence creates a new obstacle lengthening the path to full citizenship rights.

The conditions for acquisition that a country imposes on long-term residence or naturalisation are similar and related. The fewer conditions a country places on family reunion or long-term residence, the fewer they tend to place on access to nationality—and vice-versa. The requirements for one may be slightly less demanding than for the other, but the essential elements are the same. The language or “integration” assessments are slightly more demanding for access to nationality. Whereas the economic resource and health insurance requirements imposed by EC directive have made national practices more demanding for long-term residence on average in the Member States, especially in Central Eastern Europe.

7. The MIPEX results point to exceptions like Cyprus (no explicit mention in the law of equal access to social security), France (long-term residents are still excluded from 50 private sector professions, self-employment in many areas, and many parts of the public sector), and Ireland (no formal long-term residence status exists).
8. In countries like Spain or UK, voting rights are only given out to some foreign residents, depending on their origins.

These findings reinforce the claim about another spillover effect; “throughout Europe the politics of immigration have become the politics of nationality” (Hansen & Weil, 2001). National policymakers may be transposing the conditions for full membership in the national community unto the conditions for very different statuses like the acquisition of a long-term residence permit or the right to live with one’s family. Governments that apply the same logic to condition foreigners’ rights and statuses may be using the integration legal framework as a signal to voters or to prospective immigrants about what are their new definitions of “integration” and “the perfect citizen.” (CARRERA, 2008)

On the “security of status” strand, the MIPEX findings suggest that applicants for long-term residence enjoy stronger procedural guarantees in law than applicants for naturalisation, due to the transposition of binding Community standards promoting the rule of law. An applicant for long-term residence can be rejected on fewer grounds and these decisions need to take into account more aspects of their personal circumstances. On other accounts, these procedures seem relatively similar. For instance, in cases of refusal or withdrawal, applicants for both statuses generally enjoy the same legal guarantees and avenues of redress.

Equal civil and socio-economic rights in nearly all EU Member States<sup>7</sup> were largely assured through transposition of the Directive. As an indirect consequence, the immigrant who opts instead for naturalisation will gain comparatively few additional rights. Naturalisation brings with it political enfranchisement on a scale that cannot compare with the often basic passive local voting rights available to long-term residents.<sup>8</sup> Naturalised citizens also have full mobility rights outside the EU, protection against expulsion, and guaranteed equal treatment with nationals. This short list of comparative advantages of national over civic citizenship might interest a limited set in the population: immigrants who are politically mobilised, internationally mobile, and aware how insecure residence or nationality discrimination constrain their lives and opportunities. As naturalisation has lost some of its added value to long-term residence, immigrants have lost many of the reasons to become nationals.

At least one of the reasons *not* to become nationals—the obligation to renounce a previous nationality—has been removed in part or in full from many naturalisation policies. The trend towards tolerance to “dual nationality” has little to do with a country’s long-term residence policies and much to do with their eligibility provisions for nationality. The

MIPEX secondary analysis indicates that the countries that facilitate the naturalisation residency requirement and recognise *ius soli* are also more likely to tolerate dual nationality. Both facilitated residence requirements and acceptance of dual nationality are presented as closely-related, and path-dependant components in integration policy (Howard, 2005, Faist, 2004) for states moving away from an ethnic to a more civic concept of the nation (Mazzolari, 2006).

## The relevance of national models: citizenship choices for immigrants and strategies for advocates

Comparative political sciences are debating whether integration policies in Europe are diverging or converging by making arguments for (Jacobs & Rea, 2007; Koopmans et al., 2005) and against (Joppke, 2007b; Carrera, 2005) the continued relevance of “national models,” often through the lens of access to nationality (Brubaker, 2004 and 1992; Kymlicka 2001). This article enters the debate on national integration models by clustering the 28 MIPEX countries according to access to the range of citizenship rights (social, economic, political, etc.) through different legal statuses:

- As legal residents (residence-based citizenship)
- As long-term residents (civic citizenship)
- As naturalised citizens (national citizenship)

The article uses the country-level MIPEX results for access to nationality and long-term residence, as well as political participation and protections against nationality discrimination, both of which are taken as key indicators of a residence-based citizenship concept. The MIPEX equal treatment rubric is used to make a simple distinction between policies that bring the immigrant and the citizen closer together (50-100 = relative area of strength) and those keeping them apart (0-49 = area of weakness).

This clustering is premised on the idea of a citizenship continuum, rather than on a false choice between the two trends on national and civic citizenship. Beyond political rhetoric, there is little evidence that states face a trade-off: facilitate either national or civic citizenship. For example, some countries make it easy for immigrants both to vote as foreigners and to naturalise as citizens; others do opt for one over the other; while others still do neither (Jacobs, 2009). A continuum is helpful to recognise that these two trends are reshaping not only how the law discriminates between nationals and foreigners, but also how the state treats immigrants as “citizens-to-be.” The impact of neither, one or both of these trends in each of these countries determines whether nationals, long-term residents, and/or all legal residents have the rights to act as citizens in the many areas of life. This “citizens-centred approach” may help to explain the legal factors that inform immigrants’ choices about what status to apply for and advocates’ choices about what policies to change.

Residence-based citizenship for all (Belgium, Netherlands, Portugal, Sweden)	
MIPEX strand	Score (Strong = 50-100, Weak = 0-49)
Long-term residence	Strong
Access to nationality	Strong
Anti-discrimination	Strong
Political participation	Strong

The citizenship frameworks in Belgium, the Netherlands, Portugal, and Sweden have been most affected by the two outlined legal trends, which come together in the concept of “residence-based citizenship.” The principles of equal treatment and opportunity are applied across the legal framework to facilitate access to both nationality and long-term residence. Certain civic citizenship rights are granted to all legal residents, so that newcomers do not start out at a comparative disadvantage in society, which can be entrenched and compounded in the years up until the acquisition of long-term residence or nationality. Full civic citizenship rights protect immigrants against unequal treatment based on their nationality in many areas of life, while opening to them many legal integration opportunities, including the right to participate in decision-making.

9. See *Annual Report*, Vienna: Fundamental Rights Agency (2008). [http://fra.europa.eu/fraWebsite/products/publications\\_reports/ar2008\\_part2\\_en.htm](http://fra.europa.eu/fraWebsite/products/publications_reports/ar2008_part2_en.htm)
10. In Canada, see [www.ukba.homeoffice.gov.uk/britishcitizenship/applying/ceremony](http://www.ukba.homeoffice.gov.uk/britishcitizenship/applying/ceremony) and, in the UK, see [www.cic.gc.ca/English/citizenship/cit-ceremony.asp](http://www.cic.gc.ca/English/citizenship/cit-ceremony.asp).
11. See the Institute for Canadian Citizenship ([www.icc-icc.ca/en](http://www.icc-icc.ca/en)), UK New Citizen ([www.uknewcitizen.org](http://www.uknewcitizen.org)) and New Citizens Voice ([www.newcitizensvoice.com](http://www.newcitizensvoice.com)).

Immigrants in residence-based citizenship countries have a real choice between various paths to full civic and national citizenship. First-generation immigrants who opt for facilitated procedures for long-term residence will see these civic citizenship rights reinforced by EC law, be better protected from expulsion, and have better opportunities to move within the EU and, to some extent, abroad. Those first-generation interested in full mobility and residence rights, national voting rights, and full access to public sector jobs can opt for facilitated naturalisation and dual nationality. Their descendants, just like national children born and educated in the country, are entitled to nationality under variations of the *ius soli* principle. This paradigm covers the “basics” of citizenship for all newcomers, while opening multiple, easily accessible paths to full citizenship.

The “next step” challenges for residence-based citizenship are implementation and uptake. Setting the goal to raise low naturalisation rates can raise immigrants’ interest in becoming nationals and improve policy implementation and the allocation of resources to citizenship. Setting the goal to raise low levels of reporting and sanctioning of discrimination cases<sup>9</sup> can improve access to justice, which makes the law an effective deterrent against unequal treatment and an agent of cultural change. These activities can be complimented by minor improvements to the legal framework. Rights and responsibilities withheld from all residents can be reviewed as to their effects on the state of equal opportunities in the country. Reviews can also evaluate whether procedural requirements for long-term residence and naturalisation are acting as incentives or obstacles to the update of citizenship.

Civic citizenship for all, but democratic citizenship for nationals (Canada & UK)	
MIPEX strand	Score (Strong = 50-100, Weak = 0-49)
Long-term residence	Strong
Access to nationality	Strong
Anti-discrimination	Strong
Political participation	Weak

Canada and the UK have also followed the twin trends towards residence-based citizenship—in all areas but political rights. Consultative bodies have not been established, as, for instance, in Ireland. Electoral rights are reserved for nationals in Canada and enjoyed by only Commonwealth citizens in the UK. Democratic inclusion comes through naturalisation. Indeed, a traditionally strong emphasis has been placed on the state’s interest in encouraging residents to become nationals, for instance through the acceptance of dual nationality, naturalisation campaigns, applicant counselling services, ceremonies,<sup>10</sup> and active citizenship initiatives for new and old citizens.<sup>11</sup>

Opening up the political opportunity structure can address the gaps in residence-based citizenship. In Canada, voting rights are already being proposed under a new concept of local citizenship.<sup>12</sup> The UK could use the political rights of Commonwealth citizens as a benchmark for all residents. Currently however, the 2009 Borders, Immigration, and Citizenship Bill<sup>13</sup> has radically turned the debate away from the very concept of residence-based citizenship towards “earned citizenship,” which would reverse both legal trends promoting “indefinite leave to remain” and British nationality. This increasing politicisation of immigration and naturalisation (Bauböck, 2007) can make practitioners and civil servants more reactive and thus frustrate long-term citizenship goals and effective implementation.

Facilitating national over civic citizenship: (France & Ireland)	
MIPEX strand	Score (Strong = 50-100, Weak = 0-49)
Long-term residence	Weak
Access to nationality	Strong
Anti-discrimination	Strong

The only countries to favour the trend towards facilitated national over civic citizenship are France and Ireland, two countries with historically inclusive concepts of who is a national. Even though both countries prohibit nationality discrimination in anti-discrimination, non-nationals have limited rights under their temporary and long-term residence permits.<sup>14</sup> The only real choices for citizenship are naturalisation for the first generation and *ius soli* acquisition of nationality for the second generation, both of which can be dual nationals.<sup>15</sup> The traditional border between the foreigner and the French or Irish national is more porous, but remains rather thick. In a decade of increasing immigration, they have kept facilitating naturalisation, but have also kept many citizenship rights closely bound to nationality.

Advocates in the two countries have had varying success introducing civic citizenship. The emergent community of integration stakeholders in Ireland secured active and passive voting rights in time for the 2004 local elections and is well positioned, in cooperation with the new Ministry of Integration, to guide the current debate on long-term residence and family reunion.<sup>16</sup> In contrast, the established French “immigrants’ rights” NGOs have been galvanised in reaction to the range of new government initiatives in areas unrelated to citizenship. This pull of focus largely leaves the citizenship agenda to the Ministry, which, in the current political climate, has steered away from promoting civic or national citizenship<sup>17</sup> and towards promoting national identity and republican values as conditions for entry and residence.<sup>18</sup> These cases highlight a few important factors for the acceptance of civic citizenship: the framing of new concepts, civil society partnerships, the degree of state interest, and the potential hard or soft impact of European norms.

Facilitating civic over national citizenship (Finland, Hungary, Norway, Slovenia)	
MIPEX strand	Score (Strong = 50-100, Weak = 0-49)
Long-term residence	Strong
Access to nationality	Weak
Anti-discrimination	Strong
Political participation	Strong <sup>19</sup>

Compared to France or Ireland, the majority of EU Member States have followed the opposite trend in the direction of civic citizenship: making it easier for foreigners to become long-term residents, without

12. See the work of the Maytree Foundation ([www.maytree.com/integration/voting\\_rights](http://www.maytree.com/integration/voting_rights)) and the “I Vote Toronto” campaign ([www.ivotetoronto.org/](http://www.ivotetoronto.org/)).
13. See Borders, Citizenship and Immigration Bill [HL] 2008-09, <http://services.parliament.uk/bills/2008-09/borderscitizenshipandimmigration.html>.
14. Ireland, which opts out of EC law on justice and home affairs, has, to date, a very discretionary family reunion procedure and, moreover, no long-term residence status. Legal residents may vote and stand for local election, but any other civic citizenship rights they may enjoy are instrumentally tied to their work permit. France has restricted the conditions for family reunion and long-term residence to just within the limits of EC law and, even then, excludes non-nationals from full electoral and economic citizenship. In April 2009, the HALDE (High authority for the fight against discrimination and for equality) recommended an end to nationality restrictions on an estimated seven million jobs in the public and private sector, with the exception of the few related to state sovereignty and the exercise of public authority, [www.halde.fr/Emplois-fermes-aux-etrangers-15,12851.html](http://www.halde.fr/Emplois-fermes-aux-etrangers-15,12851.html).
15. In Ireland, the relatively inclusive (though, again, relatively discretionary) naturalisation procedure is the means for immigrants to obtain their family reunion, socio-economic, residence, and mobility rights. In France, then Interior Minister, now President Nicolas Sarkozy is interested in naturalisation as the means for discretionarily resolving residence rights, channelling inclusion through republicanism, and celebrating national identity. For the new citizenship ceremonies, Moinet, Jean-Philippe, *Célébrer la bienvenue dans la république française*, Report on the ceremonies celebrating the acquisition of French nationality, to the Minister responsible for social cohesion, Paris, 2006 <http://lesrapports.ladocumentationfrancaise.fr/BRP/064000335/0000.pdf>.
16. Civic citizenship could improve with the passage of the 2008 Immigration, Residence and Protection Bill 2008, [www.oireachtas.ie/documents/bills28/bills/2008/0208/B0208D.pdf](http://www.oireachtas.ie/documents/bills28/bills/2008/0208/B0208D.pdf).
17. In an April 24 2008 joint TFI/France 2 interview, Sarkozy said that while he supported voting rights “in an intellectual sense,” they were not work with the parliamentary majority or with his political posturing on immigration; “We need foreigners. We need quotas. We need to control things. The debate on the right to vote, reduces—rather than adds—clarity to this question.”
18. For the evaluation of knowledge of Republican values, including the national anthem, see the High Council on Integration, *Introducing republican values*, Paris, 2009 <http://lesrapports.ladocumentationfrancaise.fr/BRP/094000180/0000.pdf>.
19. The scores on political participation for Hungary (29) and Slovenia (15) are not strong as aggregates, however both countries grant some local voting rights to long-term residents.

becoming nationals. Only a few progressive Scandinavian and Central European countries have attained full civic citizenship. Long-term residents enjoy many residence, social, economic, and local political rights. Discrimination in these areas is prohibited on the grounds of nationality and a wide range of personal characteristics like language or origin. In this state of development, the boundary between foreigner and national remains thick, but less meaningful for citizenship rights.

Expanding citizenship is a strategy with inherent limits if a country is not moving from an ethnic to a civic concept of belonging. That long-term residence has been facilitated in lieu of naturalisation speaks to the continued identification of nationality with ethnicity. For instance, facilitated naturalisation procedures are part of these countries' legal frameworks, reserved only for co-ethnics.<sup>20</sup> The presumption that ethnic and ancestry ties indicate integration into the national community is one of the two main reasons for complaints, petitions and questions about nationality policies to the European Commission.<sup>21</sup> Even ordinary naturalisation procedures in these countries have a markedly cultural character.<sup>22</sup> New countries of immigration with increasingly large, diverse foreigner populations cannot guarantee societal integration without rewriting nationhood. Civic citizenship countries come to a point where policy-makers look around Europe and engage with its trends towards *ius soli*, dual nationality, and facilitated residence requirements.

- 20. In Finland and Norway, this group also includes "Nordic" citizens.
- 21. *Fifth Report on Citizenship of the Union (1 May 2004 – 30 June 2007)*. Brussels: European Commission, COM(2008) 85 final.
- 22. This cultural component also exists in countries that are multicultural: foreigners can learn the language of the national minority to pass the language requirement: Sámi in Norway or Swedish in Finland.
- 23. The Czech Republic's MIPEX score on access to nationality (50) falls right on the cusp of weak and strong. On closer inspection, its policies do not qualify as "full national citizenship" due to a lack of *ius soli* provisions, a long residence period (5 years of *permanent* residence), and few exceptions for dual nationality.
- 24. The Czech Republic, Italy and Poland explicitly deny electoral rights, even to long-term residents at the local level, while nowhere in Poland are immigrant associations structurally consulted or funded for political activities. For more, see Kosic, A. and Triandafyllidou, A. "Active Civic Participation of Immigrants in Italy," and Iglicka, K. "Active Civic Participation of Immigrants in Poland," Politis Project, 2005, [www.politis-europe.uni-oldenburg.de/9812.html](http://www.politis-europe.uni-oldenburg.de/9812.html).
- 25. The Czech Republic, in the first group, may recognise nationality discrimination, but it has yet to comply with EU law on the fields of application of anti-discrimination law or the establishment of a proper equality body.

<b>Second-class citizenship: democratic exclusion (Czech Republic, Italy, Poland) and nationality discrimination (Denmark, Estonia, Germany, Luxembourg, Slovakia, Spain, Switzerland)</b>		
MIPEX strand	Score (Strong = 50-100, Weak = 0-49)	Score (Strong = 50-100, Weak = 0-49)
Long-term residence	Strong	Strong
Access to nationality	Weak <sup>23</sup>	Weak
Political participation	Weak	--
Anti-discrimination	--	Weak

"Second-class citizenship" can be defined as facilitating long-term residence within a wider framework that is missing key citizenship rights and protections. Immigrants can opt to become long-term residents, but without the guarantee of being treated like full civic citizens. Political exclusion represents the underlying weakness in Czech, Italian, and Polish provisions on civic citizenship.<sup>24</sup> In the second assortment of countries,<sup>25</sup> the fact that nationality is an "acceptable" ground for unequal treatment makes foreigners easier targets for discrimination and undermines long-term residents' ability to exercise their comparable rights. In both cases, long-term residence is a poor stand-in for national citizenship, a situation feared since the adoption of the EC Directive (Groenendijk, 2006; Carrera, 2005).

Actions to remedy these "second-class citizenship" gaps may run into constitutional constraints and a lack of political will. Local and regional authorities in Austria, Italy, or Spain, whose attempts to extend voting rights in their jurisdiction have been blocked by national courts, may need to invest in the long and complicated process of a constitutional amendment. Resistance to protections against nationality discrimination may be more political in nature. Some Member States like Belgium, Ireland, the Netherlands, and Sweden used legislative changes transposing the EC directives to create a positive spillover effect levelling up domestic provisions on grounds like nationality (Bell, 2009). Other Member States like Spain chose not. Citizenship advocates can better

prepare any future domestic or EU-related legal opportunities through greater awareness-raising and advocacy that mobilises the mounting EU-wide evidence of discrimination<sup>26</sup>, especially cases of nationality as an indirect form of racial or ethnic discrimination.

Exclusionary citizenship (Austria, Cyprus, Greece, Latvia, Lithuania, Malta)	
MIPEX strand	Score (Strong = 50-100, Weak = 0-49)
Long-term residence	Weak
Access to nationality	Weak

This last group of countries is resisting both European trends on civic and national citizenship. Newcomers arrive with few citizenship rights and must wait through restricted, long, and demanding paths to the acquisition of long-term residence or nationality. At the end of these procedures, civic and naturalised citizens will not be denied the full bundle of residence, mobility, social, economic, and democratic rights that their fellow immigrants in other EU Member States.<sup>27</sup> These countries' legal frameworks serve to protect the thick, solid border separating the national citizen from the foreigner.

Exclusionary and second-class citizenship frameworks need to get back to the basics about how important common citizenship is for people living in diverse societies. In these countries, the increasing, permanently settled foreign population is a new reality (i.e. Italy, Spain or the Czech Republic), one that has been actively denied in past (i.e. Austria or Denmark) and present policy changes (i.e. Greece or Malta). Nationality policy is where the root problem of citizenship lies. States looking through the lens of historic problems of state sovereignty and identity tend to see new diversity as a threat, rather than a renewal, of citizenship (i.e. the Baltics). Bringing immigrant voices into the nationality debate can make visible this new reality. It also provides evidence of the personal and societal impact of long residence requirements, the obligation to renounce a previous nationality, or a lack of *ius soli* provisions.

### A Europe closer to its citizens: strategies for cooperation on national and civic citizenship

The choice for greater European cooperation among the wide variety of "citizenship stakeholders" may secure the legal standards and resources that they need to promote citizenship in the countries all along this continuum. Immigrant organisations have an interest in providing better opportunities and encouragement for their communities to apply. New generations born in Europe are increasingly being recognised for their different lived realities and need for nationality. Advocates look to make citizenship choices a reality for immigrants by looking for new proposals and implementing actions. Indeed, the design and implementation of residence and citizenship policies often rely on this input from civil society, as well as regional and local authorities. This group of stakeholders turning to citizenship is increasing, as integration rises up the political agenda.

Ministries of Justice and Home Affairs, often in the lead on integration policy, are not only recognising that promoting citizenship is part of their core business,<sup>28</sup> but also that naturalisation is a key opportunity for non-EU residents and a key objective for integration policy.<sup>29</sup> This perspective is being encouraged by their counterparts in the European Commission—the Directorate General on Justice, Freedom, and Security (DG JLS). Its

26. See *EU-MIDIS: European Union Minorities and Discrimination Survey*. Vienna: Fundamental Rights Agency, 2009. [http://fra.europa.eu/fraWebsite/eu-midis/index\\_en.htm](http://fra.europa.eu/fraWebsite/eu-midis/index_en.htm); *Discrimination in the European Union*. Brussels: Special Eurobarometer 263, 2007. [http://ec.europa.eu/public\\_opinion/archives/ebs/ebs\\_263\\_sum\\_en.pdf](http://ec.europa.eu/public_opinion/archives/ebs/ebs_263_sum_en.pdf); ZEGERS DE BEIJL, Roger (ed) *Documenting discrimination against migrant workers in the labour market*. Geneva: International Labour Organisation, 2000.
27. For long-term residents in these countries, the obligation under EU law to grant comparable socio-economic rights is mitigated by the imposition of demanding, discretionary conditions for acquisition that are within the limit of the Directive's minimum standards. While for new citizens, some countries retain the most discouraging naturalisation requirement to renounce a previous nationality. Others retain the discretion to withdraw the new nationality on various grounds, even if it leads to statelessness.
28. See *The Hague Programme: strengthening freedom, security and justice in the European Union*. Brussels: European Council, 13 December 2001.
29. *Tampere Presidency Conclusions*. Tampere: European Council, 15-16 October 1999, Article III, 21: "The European Council endorses the objective that long-term legally resident third country nationals be offered the opportunity to obtain the nationality of the Member State in which they are resident."

first priority action for 2005-2010 was to develop a full-pledged policy promoting citizenship and fundamental rights; "The EU is not just bound to respect fundamental rights and citizenship, but to engage in actively promoting them."<sup>30</sup> Since its creation in 1999, DG JLS has:

- Proposed the Directive creating the single long-term residence status;<sup>31</sup>
- Invented and promoted civic citizenship;
- Launched practical cooperation on integration;<sup>32</sup>
- Welcomed new policies facilitating the acquisition of nationality;<sup>33</sup>
- Funded transnational projects and research on citizenship; and
- Structured an information exchange on citizenship and naturalisation at Member States' request.<sup>34</sup>

30. See [http://ec.europa.eu/justice\\_home/news/information\\_dossiers/the\\_hague\\_priorities/](http://ec.europa.eu/justice_home/news/information_dossiers/the_hague_priorities/)

31. See <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003L0109:EN:HTML>

32. See *A Common Agenda for Integration Framework for the Integration of Third-Country Nationals in the European Union*. Brussels: European Commission, COM(2005)389.

33. On civic citizenship and the acquisition of nationality, See *Communication on a Community immigration policy*. Brussels: European Commission, COM(2000)757 and *Communication on Immigration, integration and employment*. Brussels: European Commission, COM(2003)336.

34. See *On the strengthening of integration policies in the European Union by promoting unity in diversity*. Luxembourg: JHA Council Conclusions, 12-13 June 2007, Conclusion 9, p. 4.

35. Case C-369/90 Micheletti v. Delegación del Gobierno en Cantabria, (1993) ECR-I-4239, para 10.

The Council of Europe has already encouraged states to cooperate together to harmonise European law on nationality and foreigners' local political rights. The European Court of Justice has also entered the standard-setting debate with its ruling that nationality policies should have "due regard to Community law."<sup>35</sup> Cases before the ECJ can impact policy changes in the Member States (Vink & de Groot, forthcoming) and the Commission's application of the Copenhagen criteria to accession countries (Kochenov, 2004).

The acquisition of nationality emerges not as the sole competence of national authorities, as is often presumed. Rather, promoting citizenship is at the core of the EU's values and part of the core business of many civil society stakeholders, different levels of government, and European institutions. These actors can cooperate to produce new European standards on nationality law; implementation standards and modules for EU civic citizenship law; and practices to promote and support the acquisition of nationality. Actors who invest in these forms of cooperation could see procedures become more accessible and accountable to immigrants as "citizens-to-be;" higher rates of immigrant naturalisation and participation in public life; and a greater public recognition of the contribution of citizenship to the well-being of new citizens and of a diverse society.

### European legal standards to promote the acquisition of nationality

Actors can turn to the Council of Europe to amend its 1997 Convention on Nationality (ECN) or negotiate a new Convention that sets standards for countries of immigration to promote the acquisition of nationality. That the 1997 Convention harmonised many of the grounds for the loss of nationality but a few vague for its acquisition may reflect the interests at the time. Its drafters were helping to bind Eastern Europe, with its changing states and citizenships, to a European rule-of-law order derived from prevailing norms (Vink & de Groot, forthcoming).

A new or renewed Convention could better detail provisions for naturalisation and the acquisition of nationality that reflect foreign residents' "genuine and effective links" to their country of residence. This ordering principle of "links", established in the famous 1995 Nottebohm ruling of the International Court of Justice, has been taken up by the most comprehensive mapping of nationality policies in Europe (Bauböck, 2005) and elaborated as "stakeholder citizenship" (Bauböck, 2008). Those newcomers and family members that have settled down in a society have put their stake in its future, which they then expressed in their decision to naturalise. For first generation immigrants, a future Convention would set a facilitated residence requirement below the ECN's current 10-year maximum, which

was not designed to address integration realities. For instance, ordinary immigrants are likely to have acquired genuine and effective links and a practical knowledge of life in the country within significantly shorter periods and would otherwise fulfil the conditions for naturalisation. Furthermore, it would provide States with a clearer definition of what it means to facilitate eligibility and criteria for “facilitated groups” like the spouses of nationals, refugees, and stateless persons. No doubt the greatest benefit of a future Convention would be to enfranchise the second generation and guarantee the equal treatment of all children born in the country. It would take a generational approach to integration by codifying the rising trend in countries of immigration towards the introduction of the *ius soli* principle. A compromise position could be the acquisition of nationality at birth by children of legal immigrants. States would also benefit from a Convention that provided principles for the acceptance of dual nationality, in keeping with another clear EU-wide trend. Specifically, it would need to proposed mechanisms to manage any inter-state issues, which at present requires the conclusion of special bilateral agreements (Hailbronner, 2005). The negotiation and eventual adoption of this Convention would be followed by a ratification campaign, compliance monitoring, and other forms of benchmarking nationality standards, policies, and effects (Tóth, 2009). Beyond nationality, the Council of Europe could transfer parts of this process to its 1992 Convention on Participation of Foreigners in Public Life at Local Level.<sup>36</sup>

### Conditions to long-term residence: looking back at impact and forward to implementation

This article presented the state of civic citizenship in EU Member States in 2007 and observed some negative spillover effects between long-term residence and naturalisation. The Preamble to Long-term Residence Directive 2003/109/EC makes the case for countries to promote their own economic and social cohesion through the greater socio-economic integration of its non-EU residents, at least those living there for some time. Yet the trend is not to make residence the main criterion for acquisition, but to impose many of the equally demanding naturalisation-related conditions such as language, integration, and economic resources requirements. In some countries, the acquisition of long-term residence constitutes more of a reward for the integrated immigrant and society—than it does a genuine instrument for the integrating. Indeed, the idea that the integration argument should “switch sides” (GROSS, 2005) crept into the final text through these discretionary conditions proposed by Member States like Austria, Germany, and the Netherlands. The resulting directive 2003/109/EC was a “lowest common denominator,” coinciding with the Family reunion directive 2003/86/EC. If independent evaluations of that Directive are any indication,<sup>37</sup> the few areas of binding high standards (here, the max. five-year maximum residence period, procedural guarantees, long-term residents’ socio-economic rights) will trigger harmonisation in national policies. Whereas areas of many derogation clauses (here, the conditions for acquisition and grounds for refusal/withdrawal) will allow for such a divergence in policies that some will be called into question for their admissibility and proportionality under the Directive’s stated integration objectives.

Deeper legal and practical cooperation in the existing EU mechanisms on integration can assess the impact of conditions for long-term residence and better implement the standards of EU civic citizenship. Just as the European Commission supports independent transposition monitoring to see whether national laws comply with the text of EU Directives, so too can it try “ret-

36. The Council of Europe may be the most appropriate forum for legal standard-setting on voting rights, given how improbable it is for the EU to negotiate another new Treaty granting it legal competence on local or European voting rights for third-country nationals. See GROENENDIJK, Kees (2008) *Local voting rights for non-nationals in Europe: what we know and what we need to learn*. Washington, DC: Migration Policy Institute, 2008.

37. For the MIPEX assessment of the negotiation, impact, and future directions for the Family Reunion Directive, See [www.migpolgroup.com/public/docs/MIPEXPolicyBrief\\_1\\_familyreunion\\_11.08.pdf](http://www.migpolgroup.com/public/docs/MIPEXPolicyBrief_1_familyreunion_11.08.pdf). For the Commission’s report on the basis of the Odysseus Network’s full evaluation of transposition, see <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2008:0610:FIN:EN:PDF>.



rospective impact assessments” to see whether the effects of national laws comply with the objectives of those Directives (Ardittis & Lacsko, 2008). Independent retrospective impact assessments would gather the existing quantitative and qualitative evidence from the most knowledgeable sources: policymakers, statistical bureaus, researchers, service providers, civil society organisations, and above all immigrants and local communities themselves. The evaluation tools that make up these public assessments are literature reviews, stakeholder roundtables, representative surveys, and focus groups. The theoretical framework for these assessments would be whether such conditions for acquisition and grounds for refusal/withdrawal are acting as instruments or obstacles to immigrant and societal integration. The results of these assessments would not only provide consensus about what we know and need to know about the state of civic citizenship in Europe, but also conclusions about the admissibility and proportionality of current long-term residence policies and related areas, which the MIPEX analysis suggests are family reunion and naturalisation. Based on this evidence base, “prospective impact assessments” could then propose the most effective improvements for policy and implementation in each Member State and the most necessary areas for higher standard-setting in European cooperation.

EC legal cooperation to raise civic citizenship standards would start with a new Commission proposal amending the current directives and end with Council negotiations, adoption, and transposition. Practical cooperation on integration will soon open up a related mechanism for setting implementation standards, called “common European modules.” Long discussed but never really defined, modules are likely to take EU practical cooperation beyond the simple exchange of information to the sort of standard-setting and benchmarking the one finds in the EU’s Open Methods of Coordination (OMCs) like social inclusion. The outputs of such exercises are good governance, quality management, and profession-based standards for implementing actors. If used, these standards could facilitate the proper implementation of EU civic citizenship objectives “on the ground.” For instance, the following recommendations from a service-provider survey on existing administrative practice on nationality could be developed into codes of good conduct, qualitative monitoring mechanisms, performance indicators, and cooperation structures led by Ombudsmen:

- Clear, detailed and binding procedural guidelines;
- Continuous staff trainings for administrative bodies;
- Information campaigns on the procedures and advantages of nationality;
- Full information on the progress of procedures, a written reasoned decision, and avenues for appeal;
- A single request for documents and certificates in order to reduce the length of the procedure;
- Inter-agency systems and flexible requirements for hard-to-obtain documents;
- Costs to acquire nationality no greater than those to acquire a national ID card; and
- Time limits on procedures; (Chopin, 2006).

Other examples are language or citizenship/integration tests. Certain Member States have adopted tests, with the rationale that the immigrant population will be encouraged to improve their language skills and knowledge of practical life, the political system, the constitution, society, history, culture, values, and so on and so forth. This knowledge is supposed to help them participate more in society and feel a greater sense

of belonging/settlement. Yet other Member States have removed or simplified these very same tests, with the view that they are disincentives to apply which serve other policy goals than integration. Those who pass tests for long-term residence or naturalisation would have no greater life chances or sense of belonging than long-term residents or new citizens before. Whereas those who are discouraged to apply or fail to pass would be worse off. They would not have the opportunities brought by long-term residence or naturalisation and, what's more, feel like civic or national citizenship is not for people like them. Indeed, language or integration tests can have a disproportionate effect not necessarily on people who are less integrated, but on those who are less educated or less well-off.

Thus far, the standards and effects of tests remain unclear and controversial within government and academic circles, across Member States and between policymakers and immigrant communities.<sup>38</sup> Independent retrospective impact assessments can answer this question before European legal and practical cooperation: are tests acting as facilitators of or obstacles to the agreed integration objectives? Assessments can prove that the introduction of tests was a deterrent when there is an important decrease in the number of applications, a far-from-perfect passing rate for the test, and lower acceptance rates. Whereas a test can be proven to be an efficient integration instrument when it is introduced in a way that continues to encourage immigrants to apply and implemented in a way that enables most applicants to succeed. Only once a test passes these "efficiency" tests does the assessment go on to the "effectiveness" test. A test can be proven to be effective for individual and societal integration when those who acquired the status are participating more in the many areas of life and are reporting a greater sense of belonging/settlement than those before. If the retrospective impact assessments find that tests—or testing in general—is (in)efficient and then (in)effective for promoting integration, then European cooperation can introduce new legal standards and new modules to implement those standards.

### **Raising Europe's interest in raising naturalisation rates**

Naturalisation rates tend to increase with the size of the settled immigrant population. Still they remain surprisingly low across the EU, even in countries embracing dual nationality. According to the 2007 MIPEX results, 15 EU Member States lack proactive policies to inform immigrant residents of their political rights and opportunities, whilst six others have organised only ad hoc campaigns. For stakeholders who want to see immigrants choosing citizenship in their city, region or country, launching a campaign is daunting. Their interest must be backed by a significant commitment of intellectual, human and financial resources for each potential naturalisation candidate that the campaign hopes to reach and support. These are high-risk investments in an untested process, sometimes with a loose network of new partners, often without a good knowledge of the immigrant population's needs and realities, and definitely with no guarantee of success.

An EU-wide campaign around the common goal to raise naturalisation rates can be supported by the EU infrastructure on integration. Advocates and governmental agencies cooperating at European level pool resources, learn from others' past experience and best practice, strengthen partnerships, gain knowledge, and set and monitor outcome targets for naturalisation rates and performance benchmarks

38. The Dutch integration tests for family reunion, long-term residence, and naturalisation have created a large body of literature. For academic evaluations of policy impact, see VAN OERS, Ricky (2007) "Integration as a Requirement for Naturalisation," Berlin: *Paper for the Annual meeting of the The Law and Society Association or TER WAL*, Jessika et al. (2008) "Turkish marriage migration to the Netherlands: Policy vs. Migrants' Perspectives," *Journal of Immigrant & Refugee Studies*, 6(3), P. 209-422.

for their actions. Where stakeholders can start benefiting from the EU infrastructure on integration is funding. They can submit joint put to the European Integration Fund, both for transnational “Community Actions” and specific national actions. Part of the general objective of the Fund is to enable third-country nationals to participate in civic and political life and civic citizenship. In particular, one priority for national actions is to “contribute to the elaboration and improvement of national preparatory citizenship and naturalisation programmes.”<sup>39</sup> Comparative information on nationality policies through projects like MIPEX and NATAC facilitates cross-border exchange and strategising. The European Integration Fund will support a European Observatory on Citizenship (EUCITAC) to further provide information and analysis on citizenship. Its website will collect available, up-to-date official statistics, which can serve to map eligibility for naturalisation and monitor the outcomes of procedures. A campaign can also use a transnational representative survey among immigrants—a tool in very short supply.<sup>40</sup> A survey would gather the views and recommendations of the past and future candidates for naturalisation. These are the people who are directly experiencing the concepts issues that citizenship policymakers and campaigners are discussing. The survey’s comparative nature further reveals the strengths and weaknesses in different local and national situations. Campaigners would learn the context of which and how many immigrants are eligible and, moreover, the reasons why they are or are not applying, whether by choice, circumstance, or constraints in current policies. Their pilot naturalisation campaign, supported by the EU infrastructure on integration, could encourage national policy to see state and society’s democratic, social and economic interests in the acquisition of nationality. This new mandate to promote citizenship could lead to the establishment of national administrative practices and ongoing campaigns that aim to keep up the new standard for naturalisation rates set through this European cooperation.

39. See *European Integration Fund, General programme on Solidarity and Management of Migration Flows for the period 2007-2013*. Brussels: European Commission Communication, COM (2005) 0123 final, Article 4, 309, [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005PC0123\(03\):EN:HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005PC0123(03):EN:HTML).
40. For available surveys of immigrants and nationals related to migration, integration, and citizenship, see [www.prominstat.eu](http://www.prominstat.eu). LOCALMULTIDEM is currently the only transnational survey of immigrants on citizenship and political participation in six European cities. See [www.um.es/localmultidem/](http://www.um.es/localmultidem/).

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