

NATIONALITY, CITIZENSHIP AND INTEGRATION, A EUROPEAN PERSPECTIVE*

*The article discusses the interactivity of nationality and integration, or of membership in a state versus membership in a society. With analytical distinction between nominal and substantive citizenship, the significance of citizenship is analysed as a legal bond between a person and a state, as well as a cluster of rights and duties. The tie between citizenship and democracy is the *ethnos* from *demos* has not been realised. In a modern European nation-state, a complete separation of «*ethnos*» from «*demos*» has not been realized. Amongst the three prevailing integration models, the pluralistic inclusive model is the one that offers the best perspectives for the solving of tensions between immigration, integration and citizenship. It is in this context that I evaluate different meanings of integration and multiculturalism, especially its potential for substantive citizenship. Within the context of the developing concept of «*civic citizenship*» from the aspect of recent initiatives within the European Union, «*denizenship*» as a result of social relation with the state can be interpreted within the frames of the political concept of a society in relation between political community and naturalization of an individual. In most European states there is a trend of incorporation of lawfully and habitually resident aliens into civil society and the state, there is a gradual liberalisation of naturalisation rules, the watering down of the «*right of blood*» as well as acceptance or at least of dual/multiple nationality.*

Keywords: nationality, citizenship, integration, nation-states

NARODNOST, DRŽAVLJANSTVO IN INTEGRACIJA V EVROPSKI PERSPEKTIVI

*V prispevku razpravljam interaktivnost državljanstva in integracije oziroma članstva v državi nasproti članstvu v družbi. Z analitično distinkcijo med nominalnim in vsebinskim državljanstvom, je pomen državljanstva analiziran kot legalna vez med posameznikom in državo in kot skupek pravic in dolžnosti. Vez med državljanstvom in demokracijo je «*demos*» politične skupnosti. V moderni evropski nacionalni državi popolna ločitev «*ethnosa*» od «*demos*» še ni realizirana. Med tremi prevladujočimi integracijskimi modeli, pluralistični inkluzivni model ponuja najboljše perspektive za reševanje napetosti med imigracijo, integracijo in državljanstvom. V tem kontekstu ocenjujem različne pomenne integracije in multikulturalizma, zlasti njegovega potenciala za vsebinsko državljanstvo. V okviru razvijanja koncepta «*civilnega državljanstva*» z vidika nedavnih pobud v okviru Evropske unije, je «*denizenship*» kot rezultat družbenega odnosa z državo lahko tolmačen v okviru političnega koncepta družbe v odnosu med politično skupnostjo in naturalizacijo posameznika. V večini evropskih držav obstaja trend vključevanja zakonito in običajno prebivajočih tujih državljanov v civilno družbo in državo, k postopni liberalizaciji pravil o naturalizaciji, vodenitvi «*pravice krvi*» ter k priznavanju ali toleriranju dvojnega/večkratnega državljanstva.*

Ključne besede: narodnost, državljanstvo, integracija, nacionalne države

We live in an era of globalisation where states are fixed in territory and where membership in societies is becoming increasingly mobile, reaching beyond the boundaries of territory, nationality and citizenship. Additional dimensions to the geography of social relations that globalisation has brought about contributed to an era obsessed with questions of individual and collective identity. In most European societies the treatment of the celebrated 'other', the other in ourselves, in our midst and the other clamouring at our doors and shores is an issue extremely high on the political and public agenda. It has been often claimed that there is a need for the development of international standards in the field of nationality, and the need for changes in citizenship rules and practices. Yet, at the beginning of the new millennium the traditional, classical vocabulary of nationality, of the State, the 'Nation' and 'People' seem to provoke complicated reactions, expressing a profound anxiety, which reflects the deepest dilemmas of constructing the ends and means of the integration at the national, international and supranational level.

Knowledge on nationality, and specifically on laws on nationality is generally regarded as a specialist one. Yet legal definitions of who belongs, and on what terms, to political units most commonly called nation-states have inevitably, consciously or not, in combination with various other policies and laws, influenced the sense of national identity. Scrutiny and amendment of the plans of States, the Council of Europe and the European Union require from people in each of these to ask questions, worthy of critical analysis and important to practical action, questions of a fundamental kind. The purpose of this paper is to put some of these questions on the 'mental map' by examining the interaction between nationality and integration or rather nationality and citizenship in a state versus membership in a society, especially with respect to the membership of long-term immigrants. To do this I briefly explore the meanings of nationality as a legal, political and mental bond to the State utilising the analytical distinction between nationality as nominal citizenship and substantive citizenship consisting of rights and duties. The deepest, most clearly engraved hallmark of citizenship is that citizens constitute the *demos* of the polity, citizenship being not only about public authority, but also about the social reality of peoplehood and the identity of the polity. I argue that in the modern European nation-state, the most prominent of social forms that modernity has produced, a complete divorce of *ethnos* from

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* This article is a slightly revised version of the author's report "Interaction between Nationality and Integration" [CONF/NAT (2001) Rep1] to the 2nd EUROPEAN CONFERENCE ON NATIONALITY: "CHALLENGES TO NATIONAL AND INTERNATIONAL LAW ON NATIONALITY AT THE BEGINNING OF THE NEW MILLENNIUM", Council of Europe, Strasbourg 8 and 9 October 2001, published here with the consent of the Council of Europe, Directorate General I Legal Affairs.

demos has thus far never worked. Of the three models regarding citizenship for immigrants, the pluralist inclusionary model seems to offer the best perspectives for breaking tensions inherent in the relationship between immigration, integration and citizenship. Therefore, meanings of integration and multiculturalism are briefly debated, particularly the potential of multiculturalism for achieving social cohesion and in making a new statement on substantive citizenship. Finally, specifically in view of recent proposals in the EU, 'denizenship' as a result of the social relationship with the state is explored in the framework of the political concept of society in its relation to polity and naturalisation of an individual, which is, or ought to be, an act of consent based on choice.

EVERYONE HAS THE RIGHT TO A NATIONALITY

(...; 1997 European Convention on Nationality, Article 4 (a))

Everyone has the right to a nationality. But what is 'nationality'? And what means the 'right to'? According to the Council of Europe's definition " "nationality" means the legal bond between a person and a State and does not indicate the person's ethnic origin."¹ To some degree this definition follows the concept of nationality as defined by the International Court of Justice in the famous *Nottebohm Case* in 1955, as "... a legal bond having as its basis a social fact of attachment, a genuine connection of existence, interests and sentiments, together with the existence of reciprocal rights and duties..."² With regard to the effects of the 1997 European Convention on Nationality, the terms 'nationality' and 'citizenship' are synonymous, something I am not entirely comfortable with.

Experience learns that there is something called nationality: for it is really difficult to imagine a person without nationality. To be a 'stateless person', however, is a different matter. It is considered as a legal or/and political deficiency. Likewise we experience that there is something such as legal nationality: I have my passport, the materialisation of my public personal identity with my given and family name and the name of a particular state, which ought to be my home and protector. With the whole landmass of the globe divided into mutually exclusive state territories, this link - the nominal categorisation of populations into groups of 'nationals', in French '*ressortissants*' - is critical in the law between states. It is each state's right, indeed its reserved domain to determine, within certain limits, who are its own nationals.³ We are not free to choose our nation-

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¹ European Convention on Nationality, 1997: ETS no.166, Article 2(a).

² Explanatory Report to the European Convention on Nationality, ETS no.166, Article 2.

³ See the 1997 European Convention on Nationality, Article 2(a), and The Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws, 1930, Article 1.

ality. I acquired it at birth *ex lege*; according to one of the dominating principles, still most widely adopted master rule governing the acquisition of nationality in Europe: *ius sanguinis*. Incidentally, I was born in a multinational state, where 'nations' as intergenerational communities (*na-rod*) were imagined as preceding the state, holding also citizenship of federal republic, and where the term nationality was also used to characterise membership in particular groups with some sort of cultural or regional autonomy, and in order to make legal differentiations between nations and still other (ethnic) groups within the state's jurisdiction. When dissolved, with a successor state creating its law on nationality and establishing continuity with the previous legal order, my nationality identified in name my membership in a nation with the one in the state, again "by operation of law." Now, more than before, the 'ethnic origin' is indicated. For, in the case of Slovenia it was people that gave the name to the country, and by the declared right of their self-determination to the state, and not the other way around.⁴

If in international order of nationality, so adequately termed by de Groot as nominal citizenship,⁵ one's right to nationality is about a 'legal bond' to a State similar to that of a ship or aircraft, or even if one's right to nationality in the 'internal, national' order primarily means to acquire, to possess - then one has to agree that "the individual's right to nationality has not, as yet, found its final form and application".⁶ Yet, this is a fundamental right which gives nominal citizenship its minimal substance: if human beings would be pushed out of state membership there would be no conceivable guarantee for human rights, as long as sovereignty lies essentially with individual states. Indeed, allocation of nominal citizenship can be compared to the international political map: "ideally" then, this map would be complete when there are no stateless persons and regular if no individuals are multiple nationals. Since that is not the case, because of various reasons of which international mobility/migration of people is merely one, these two features of an international order of citizenship have been topics in many international declarations and conventions, especially in the 1960s.⁷

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⁴ On state succession and nationality in case of Slovenia see Slovenia, in *European Bulletin on Nationality*, Strasbourg, September 2000, DIR/JUR (2000) 4, p. 174; *Consequences of state succession for nationality; Report of the Venice Commission*, Science and technique of democracy, No. 23, Council of Europe 1998; Mesojedec-Pervinšek, A., 1997: *Predpisi o državljanih in tujcih z uvodnimi pojasnili* (Regulations on citizens and aliens with the introduction). Ljubljana: ČZ. Uradni list Republike Slovenije; Medved, F., 1996: *Slovenias bevisbyrde* (Slovenia's Burden of Proof) *Nordisk Östforum* 2. Oslo, Stockholm. Copenhagen, Boston: Scandinavian University Press.

⁵ de Groot, G.-R., 1989, as referred to in Bauböck, R. 1994: Changing the Boundaries of Citizenship, in Bauböck, R. (ed.), 1994: *From Aliens to Citizens* Aldershot: Avebury, pp. 199-232, p. 208.

⁶ Galicki, Z. W., 1998: Does the right to a nationality belong to the catalogue of human rights? In *Aan de grenzen van het Nederlanderschap*, 's-Gravenhage: Ministerie van Justitie, pp. 69-73, p. 73.

⁷ Council of Europe has dealt with these issues in the 1963 Convention on the reduction of cases of multiple nationality and on military obligations in cases of multiple nationality, ETS No.43 and Protocols to it in 1977 and 1993.

The principle of personal jurisdiction of States over their nationals as opposed to the subjection to territorial sovereignty, or more elementary to the monopoly of violence of any state where one (with few and well-defined exceptions) at any point of time happens to be reflects 'nationality' as "the status of a natural person who is attached to a State by the tie of allegiance."⁸ With the development of the subjectivisation of individuals the 'legal bond' became less a tie of allegiance and more a matter of reciprocal rights and duties. One wonders however, whether this bond is a legal relationship between a person and a State recognised by that State, or rather a legal status of a person granted by that State.

Nationality is inextricably linked to citizenship, not simply as a code of group identity, but also as a package of rights and duties. The nature of the relation and characterisation of both individuals and states implied by this relationship - the reciprocity of rights and duties - makes it different from other relations between individual and state. With respect to the individual this description refers to citizenship as a particular kind of status, it distinguishes citizens from other groups of population within a state, who do not enjoy all rights and from those who do not have to comply with all obligations of citizenship. Citizenship thus also implies a description of the state; there must be guarantees for certain basic rights.⁹

Therefore, it is really useful to look at nationality in terms of nominal and substantive citizenship. Nominal order of citizenship is not hierarchical, but it does not exclude a 'rank order' in its substantive form, as many States make legal distinctions between various categories of nationals.¹⁰

From this follows that the concept of substantive citizenship does not automatically derive from the nominal one. Nationality is not only a legal but also a political bond. As membership in the *demos* of the polity - *demos* being a link between citizenship and democracy - it is related to a belief in equality, liberty and self-governance, fundamental values and qualities worth protecting. However, equally so is citizenship often connected with the belief that the citizen would be superior to an alien and that this inequality of citizens and foreigners is proper and in order as it is reflected in the presumption of international law that citizenship under certain circumstances can be a suitable ground for discrimination.¹¹ As such citizenship is a membership in a polity rather than in a society.

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⁸ As defined by the 1929 Draft Convention on Nationality prepared by Harvard Law School's Research on International Law, cited in Galicki, *op.cit.*, p. 70.

⁹ See Marshall, T. H., 1948/1964: Citizenship and Social Class, in *Class, Citizenship and Social Development: Essays by T. H. Marshall*, New York: Anchor Books, pp. 78ff.

¹⁰ See *Report of the Venice Commission, op.cit.*, pp. 22-24.

¹¹ Medved, F., 1998: On the human dilemma of human rights, in *The European Convention on human rights and its implementing mechanisms for the protection of human rights of nationals, foreigners and refugees*. Ljubljana: UNHCR and The information and Documentation Centre on the Council of Europe, pp. 5 -19.

ES GIBT KEINE DEMOKRATIE OHNE DEMOS

(Josef Isensee, 1993)¹²

The concept of citizenship, having its roots in classical antiquity, is older than the concept of nation-state. Greeks were *politai*, citizens who participated in the political life of the *polis*. Foreigners, the barbarians, were *patriotai* named similarly as modern nationals after their country of origin.¹³ They could earn citizenship only as a special privilege, "particularly by risking one's life in the military service of the city".¹⁴ Roman citizens - *cives Romani* introduced a distinction between those governed by *ius civile* and those governed by *ius gentium*. The concept transformed during the existence of the empire, until 'dominate' was introduced and citizens were turned into subjects.¹⁵ In the medieval Europe, with the exception of some prosperous city-states, people were subjects (*sujets*) by birthplace or by the ruler's right of conquest, tied to the ruler by allegiance.

During the eighteenth and nineteenth centuries the evolving concept of nation-states, under the impact of a triple Western revolution - in the spheres of the division of labour, administration and culture - involved the formation of a new subjectivity: one based upon identification with *national space* and *political nation* rather than a selfhood rooted solely in a social hierarchy, religious order or local authority. The identification of *demos* and *ethnos*, both of a Greek heritage, was crucial for the self-understanding of nineteenth-century democracies, in view of becoming of democracy and the nation-state as nearly identical entities. The democratic model handed down by the Greeks was quite imperfect. Its ancient legacy also entailed the notion of the 'barbarian'. In spite of the originally liberal concept of democracy, based on two basic pillars, individuality and public reason,¹⁶ democracy could not be but interpreted as the political arrangement of a particular *ethnos*. The new equality was not all embracing. Only slowly rights of blacks (if not slaves), Jews, Protestants and women were accepted, in spite of the demands of *hommes de couleur* in 1789.¹⁷ The idea of citizens as being equal in their rights and being homogeneous in their capacity of being citizens was his-

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¹² Isensee, J., 1993: Europa - die politische Erfindung eines Erdteils, in Isensee, J. (ed.) *Europe als politische Idee und als rechtliche Form*, Berlin Duncker & Humblot, p. 133; Cf. Grimm, D., 1995: Does Europe Need a Constitution? *European Law Journal*, 1995, p. 295 and see Habermas, J., 1995: Comment on the paper by Dieter Grimm: Does Europe Need a Constitution? *European Law Journal*, 1995, pp. 303 ff.

¹³ Kantorowicz, E. H., 1950: Pro Patria Mori in Medieval Political Thought, *The American Historical Review* 56, pp. 472-492.

¹⁴ Gouldner, A. W., 1994, quoted in Žagar, M., 2000: Citizenship-Nationality: A proper balance between the interests of states and those of individuals. *1st European Conference on Nationality*, Strasbourg, 18 and 19 October 1999, CONF/NAT (99) PRO 1, pp. 93-111, p. 95.

¹⁵ *Ibid.*

¹⁶ Cf. Gauthier, D., 1995: Public Reason, *Social Philosophy and Policy*, pp. 19 ff.

¹⁷ Dummett, A., Nicol, A., 1990: *Subjects, Citizens, Aliens and Others*. London: Weidenfeld and Nicolson, p. 81.

torically based on exclusion of women and other significant groups of the population. Equality before the law was a vital condition of advancement in all societal spheres.

For general European democratic perception, the foreigner, unless a celebrated *émigré*, was the equivalent to the uncivilised barbarian. Post World War One treatment of refugees was a result of this perception and a prelude to totalitarian population transfers and concentration camps.¹⁸ True enough, democracy added a Christian innovation, solidarity on the one hand and assimilation as an idea and practice on the other. The assimilation, though in many cases both painful and oppressive for the assimilated, was quite often not considered to be final or irrevocable. In any hour of national humiliation or political hysteria, the dominant *ethnos* could always reverse the process; declaring those having been since long assimilated to be hidden and potentially dangerous aliens and treating them accordingly.¹⁹

Four historical trends were needed to trigger the reconsideration of this dominant pattern. First, the long shadow of totalitarianism, especially thrown by the Hitler-Stalin experience made it mandatory that totalitarianism should not merely be seen as the 'Other' of democracy, as in certain democratic practices, particularly in the treatment of minorities and foreigners, the seeds of totalitarianism could be recognized. Second, the collapse of colonial empires required western democrats to make amends, among other things by opening the gates of their home countries, naturalising huge groups of the former colonial subjects and recognising them as citizens whose presence created an imprint of 'cultural difference' on the domestic scene. Third, the world-wide spread socio-political arrangement of modernity, often without being underpinned by its dynamic spirit in arts and thought, made it possible for various human groups to formulate their claims in modernity's dominant vocabulary: the language of rights. Finally, in contrast to this, the advocates of the philosophical crisis of universalism/humanism, have been emphasising the often hypocritical character of universalism in which the language of rights itself is grounded.²⁰

Changes that have occurred in Europe after 1989, following the collapse of the precedent communist attempt to create a universal melting-pot society in the

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¹⁸ Marrus, M. R., 1985: *The unwanted European refugees in the twentieth century*. New York: Oxford University Press.

¹⁹ One of the convincing examples is the treatment of the Canadian-Japanese community during World War II. In 1988 Canada's Prime Minister announced a decision to acknowledge the unjust treatment of Canadians of Japanese origin, which had suffered during that period.

²⁰ Medved, F., 1993: Swedish multiculturalism: the case of Slovene immigrant organisations. *Geographica Slovenica* 24. University of Ljubljana: Institute of Geography, pp. 93-104.

'proletarian world republic', have shown that a mere shift of authority rarely suffices for the internal cohesion of a human group and that a complete divorce of *ethnos* from *demos* has thus far almost never worked. I do not only refer to the newly found nationalisms in the *Alt-Neu* Europe of the East; the captivating idea of 'nation' has retained a surprising amount of its astonishing allure even after more than fifty years of European integration (in the framework of the EU), as exemplified in the *Maastricht Urteil* by the German Constitutional Court.²¹

"COSA NOSTRA"²²

The indiscriminate use of the words nation and state is not always helpful. While the concept of state is tangible, defining and conceptualising nation is more complicated. There has always been a troubling duality at the very heart of the term. It can mean a political unit within the jurisdiction of a state, thus a purely political arrangement with a system of liberties, rights and obligations as well as a type of authority.²³ As such it is not a property of one particular group and it cannot be deepened into - to use Raymond Williams' expression - "common structure of feeling" that people so often associate with the nation and which requires a characteristic ideology that is not only a symbolic identification with rituals and emblems, like flags and anthems. To define itself national identity must appeal to the materiality of the 'common roots', the 'blood and soil' or as Slavoj Žižek, the Slovene philosopher once called it 'cosa nostra'. Nationalism, as a political movement has generally sought one, or most frequently both.²⁴

The ambition of the political, rationalising and secularising aspect of nationalism was, precisely the rearrangement of the old primordial and patriarchal order. A nation-state should be superimposed over ties of blood, the familial and regional authority as "a legal and political organization with the power to require obedience and loyalty from its citizens".²⁵ Nevertheless, even a modern phenomenon, historically specific to industrialism, needed ideological legitimation. Giving to a nation a feel of mystical blessing and at the same time giving it a formalized, legalistic account culture as the substantive form of nationhood and national self-definition seems to serve the purpose equally well. Culture becomes

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²¹ See Weiler, J. H. H., 1995: Does Europe Need a Constitution? Reflections on Demos, Telos, and the German Maastricht Decision. *European Law Journal*, pp. 219 ff.

²² Žižek, S. 1993. Svojega nočemo, tujega ne damo. *Razgledi*, July 1993.

²³ As in United Nations, international law, national sovereignty.

²⁴ See among others: Anderson, B., 1983: *Imagined Communities. Reflections on the Origin and Spread of Nationalism*. London: Verso; Gellner, E., 1983: *Nations and Nationalism*. Oxford: Basil Blackwell, Seton-Watson, H., 1977: *Nations and States: An Enquiry into the Origins of Nations and the Politics of Nationalism*. London: Methuen; Smith, A. D., 1986: *The Ethnic Origins of Nations*. Oxford: Basil Blackwell.

²⁵ Seton-Watson, H., *op.cit.*, p. 1f

a second nature.

Moreover, culture is often associated with civilisation. While the latter is primarily rooted in things and rules and is, at least in principle, a universal skill, the former is a process resulting in all the insignia, which further shape our actions and fantasy. As a national substance it is above all grounded in language. Law, politics and jurisdiction, one could say, are specific to civilised people. While everyone can learn to handle things and obey rules appropriately, the 'natural' use of a language and participation in its 'life' is confined to a particular group. Even civic, political nationalism goes beyond the objectively instrumental identification of community with language and its communicative role in the reorganisation of economic and political systems, as Karl Deutsch²⁶ would let us believe, to the identification of language with a particular language, in the Herderian sense experientially unique.

Conclusively, supposing that a nation is a political entity, à la Anderson an 'imagined political community', the meaning of the term nation can be explained as a modern integrating principle of two aspects of people: people as *demos*, a group of citizens and people as *ethnos* - historically relatively permanent yet continuously renovated collective identity of a culture community based on a fictive common descent and on concrete dimensions of which 'country' is one. Only this latter aspect is a distinctively created 'unique' manifestation of 'people'. This because it appears to satisfy a deep rooted human value, if not a need: the existential yearning for a meaning located in space and time.²⁷ One belongs, just by being there - independently of one's achievements. In this view, nationhood is a form rather than an instrument of belonging. The claim about "uniqueness" is also an instrument of demarcation, whereby the nation coexisting alongside other nations is the vehicle for realising human potential. At the societal level, nationhood involves the drawing of boundaries, indeed a constitutive act by which the nation will be defined and separated from others. The categories of boundary drawing are myriad: linguistic, ethnic, geographic, religious and similar. With time boundaries, especially non-geographical ones write themselves on individual and collective consciousness with such intensity that they appear as natural. It is hard to think in the societal sphere of the world without a category of nation.

Nationhood does not require statehood, but statehood can offer advantages

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²⁶ Deutsch, K. W., 1966: *Nationalism and Social Communication*. Cambridge, Massachusetts and London, England: M.I.T. Press. (2nd edition).

²⁷ Medved, F., 2000: The Concept of Homeland, in Runblom, H.; Blanck, D. (eds.): *Migrants and the Homeland. Images, Symbols and Realities*. Uppsala: Acta Universitatis Upsaliensis, pp. 74-96.

to the nation, both intrinsic and those resulting from the current organisation of international life. Without territorial sovereignty, as Jean Gottmann put it in "Significance of territory" a 'nation' cannot implement the "right to exclude others".²⁸ The governance with its most important functions of securing welfare and security is situated within the framework of the state. That these functions may be attained the well-being and integrity of the state must be secured. This is not a meagre value in itself, but to the extent that the state may claim a loyalty, which is more than pragmatic it is because it is at the service of the nation. This conceptualisation may underscore, or exaggerate, the difference with non-ethnos polity and a state (the Republic). However, in the European project of nation-state, I would argue, it is the *ethnos* aspect of people, which holds the strongest social and cultural-spiritual power, a force that can readily be mobilised to construct a 'nation' or resist destruction from inside or outside.

Juxtaposition of the two concepts of nation, the first based on *ius soli* (the territorial/, contractual/civic/political) concept of the nation, the second following the *ius sanguinis* principle (cultural/ethnic), deriving from the older division between *Staatsnation* and *Kulturnation* or more horizontally western-eastern division, has received a great deal of attention and support in recent years. It has been claimed that every nation-state has its own ideas about the 'essence of the nation' and that such deeply rooted ways of thinking govern policy and legislation on migration regulation, on aliens and opportunities for their naturalisation. I have argued elsewhere, that while there are different routes to the formation of nations as well as nation-states, this does not mean what is implied at first hand, namely that their ideologies are radically different. On the contrary, the 'essence of the nation' is essentially the same.²⁹ It is rather that political discourses and by extension legislation on these issues are the manifestations of nationalism, as "primarily a political principle",³⁰ with its potential of the abuse of boundaries, which are evidently the very central feature of the European nation-state enterprise. There are three principal boundaries, the external boundary of the state, the boundary between the nation and state, and the internal cognitive boundary of those making up the nation. Migration primarily instigates the instability of relation between nation and state, the hyphenation built on fragile foundation already from then, when the nation was constructed on retrospective illusion of unity and continuity.

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²⁸ Gottmann, J. 1973. *Significance of Territory*, Charlottesville, p. 95, emphasis original.

²⁹ Medved, F. 1997. Nation and patria in the emerging world order. *GeoJournal Special issue: The State Idea* 1997, no. 43, pp. 5-15.

³⁰ Gellner, *op.cit.*, p.1

MAIN ENTRY: IN-TE-GRA-TION

Date: 1620

- 1a: incorporation as equals into society or an organization of individuals of different groups
- 2b: the operation of solving a differential equation

There is no time here to dwell on the close relationship between policies aimed at managing and regulating im/migration, policies addressing the changes in society that result from immigration and policies of citizenship.³¹ Although the idea of the citizen as a free person with equal civil and political rights exists in all democracies, the precise form and meaning of citizenship varied from country to country.³² Existing models of citizenship in themselves often contradictory, contested and subject to change have provided differing conditions for the incorporation of immigrants. Thus, the analytical distinction between access to nominative and substantive citizenship cannot always be maintained in practice.

Well-known analytical simplified divisions regarding citizenship for immigrants describe three models: the model of (differential) exclusion, the model of assimilation or rather differential inclusion and the multicultural or pluralist inclusionary model.³³ In every model there are substantial variations and none is an exact description of any specific country. According to the first model, immigrants are for the most part excluded from the membership in a state, while, according to the second model, they are mainly included. There are similarities between the models, both exclude non-naturalised immigrants from the electoral process, but whilst countries adhering to the first model exclude immigrants unless they are willing to assimilate culturally, countries adhering to the second model include immigrants unless they fail to assimilate or unless assimilation is unlikely. Naturalisation is thus a crowning touch of assimilation or a starting point. Both models have comparable impacts, they foster socio-economic marginalisation or exclusion and racism and the first model furthermore results in political exclusion. The pluralist inclusionary model evolved mainly in countries where immigration has been seen as part of their strategy for nation-building. It is similar to the second model, it admits immigrants to political community but

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³¹ See e.g. Hammar, T., 1985: *European immigration policy. A comparative study*. Cambridge: Cambridge University Press.

³² Turner, B. J., 1990: Outline of a Theory of Citizenship. *Sociology* 24, no. 2, pp. 189-217.

³³ See among others Castles, S., Miller, M. J., 1993: *The age of migration. International population movements in the modern world*. Basingstoke: MacMillan; Castles, S., 1994: 'Democracy and multicultural citizenship. Australian debates and their relevance for Western Europe, in R. Bauböck (ed.), *op.cit.* pp. 3-27.

accepts the maintenance of cultural differences. Membership in civil society and nation-state is seen as consistent with cultural difference, based on its tolerance or even encouragement, but within the limits set within the bounds of the rule of law and the acceptance, indeed assimilation, of certain fundamental core political values and institutions. Negotiation of these limits is the field of struggle and contains the potential of both conflict and innovation.

The three models thus clearly diverge on the issue of cultural policy, understood here in its broadest sense. There is a question however, if they are set on typology of policy differences or rather on national traits that are seen as the sources of these differences. A growing number of comparative studies may have contributed to the increasing desire to coordinate national policies, especially within the European Union in view of the post-Tampere developments. However, many of these studies focus on differences and relate these to differing notions of citizenship and nationhood.³⁴ In my view retrospective reasoning as a quest for explanation of differences in legislation as well as culturalist explanations that overemphasise historical continuity and incompatibility in culture can be counterproductive. They reinforce the belief that differences stem from deeply rooted cultural and ideological notions that will be slow to change. Convergence on finding solutions on practical level for specific problems that are laid down in statutes and regulations are even harder to change. In the process, it becomes all the more difficult to explain why for example Sweden suddenly turned from assimilationist to pluralist course.³⁵ Models could be viewed as phases in a historical process.

In western Europe it was only in the late 1970s when to varying degrees the permanent stay of immigrants became an explicit assumption underlying policy, which led to a stepwise introduction of measures to strengthen their legal status. Simultaneously a halt to immigration was seen as a necessary condition for an effective integration policy. Many countries modified their rules for naturalisation since the beginning of the 1990s, watering down the right of the blood and there is a growing tendency to accept or tolerate multiple citizenship. More than just regulating the residence status of immigrants, policies try to bring about their integration into society, aimed predominantly at education, employment and housing. There is a convergence towards incorporation of long-term immigrants on a basis of respect for the democratic values and norms in the receiving socie-

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³⁴ See e.g. Brubaker, W. R., 1992: *Citizenship and nationhood in France and Germany*. Cambridge, MA: Harvard University Press; Brubaker, R. W. (ed.), 1989: *Immigration and the Politics of Citizenship in Europe and North America*. Lanham, N.Y. London: University Press of America.

³⁵ See Runblom, H., 1996. Immigration to Scandinavia after World War II, in Tägil, S. (ed.), *Ethnicity and nation building in the Nordic world*, London: Hurst & Company, pp. 282-324; Hammar, T., 1981: *Swedish and European immigration policy. A comparative study*; Stockholm: Swedish Commission on Immigration Research; Hammar, T., 1985, *op.cit.*

ty. All of them try to do this with some degree of respect for the distinctive cultural character of each immigrant group.

If the pluralist inclusionary model offers the best perspectives for rapid and conflict free solution to problems inherent in the relationship between immigration, integration and citizenship what does it represent and what does it do to democracy? Firstly, it is connected with the concept of integration, popularised in the 1960s as an alternative to assimilation. Secondly, with the concept of multiculturalism in its prime in the 1980s as a "formula" of 'management of diversity'. Both notions are not used everywhere in the same context.

Integration as the relation between the whole and its parts represents the most poignant feature of society. As society has been built of multitude of complex, hierarchical and parallel subsystems and their remnants, the organisation of all these parts into a well functioning unity is the central question of the fundamentals of society. In this sense integration is a phenomenon that pertains to society as a whole, but also to its parts – groups, institutions and organisations. The classical sociology offers two main explanations that allude to the togetherness of society. Firstly, integration builds on members sharing the same values, norms and perceptions. Traditionally, the church was the main mediator of values and perceptions about the meaning of life, thus the instrument of integration. Later this role has been taken by the state-run school system, working environment and media. Thus, integration, in Durkheim term's mechanical solidarity, is the result of a shared direction. Secondly, the division of labour and specialisation leads to professional differentiation, the final result of which is also, or anyway, integration, according to Durkheim organic solidarity, because of the complex interdependency relations.³⁶ There are also other differentiations, which fill similar complementary functions, such as gender or generation. In democratic societies there is also a differentiated party system. Common to these examples are institutionalised forms of conflict solving, if and when the differentiation leads to conflict. Differentiation in terms of culture, religion and ethnicity do not have an equivalent complementarity and are therefore more problematic, when it comes to integration. Neither are there accepted or institutionalised forms for conflict solving for cultural, religious, or ethnic conflicts. Integration in this meaning is a feature of the social system, not of the individuals or groups. Hence, society may be more or less integrated but not its individuals.³⁷

The notion of integration associated with the question of participation of cultural and ethnic minorities in society, especially immigrants and their children,

³⁶ See Durkheim, É., 1984: *The Division of Labour in Society*. London: McMillans.

³⁷ Westin, Ch. m fl., 1999: *Mångfald, integration, rasism och andra ord*. Stockholm: SOS-Rapport 1999:6

was introduced as an alternative to assimilation in the 1960s. The American 'melting pot' assimilation became an unrealistic objective, with ethnic groups and immigrants starting to demand recognition of their cultural identities. The word assimilation came to be avoided almost everywhere and especially for policy purposes integration became the keyword, putting emphasis on eliminating inequality and deprivation. The then British Home Secretary, Roy Jenkins, introduced the word integration as a policy term in 1966, when he defined it "not [as] a flattening process of assimilation, but as equal opportunity accompanied by cultural diversity in an atmosphere of mutual tolerance".³⁸ The central criterion for integration in this meaning is participation of immigrants and ethnic minorities in the public sphere, in economy and production, in resource sharing, politics and government. The European nation-state started to be less concerned with the achievement of cultural uniformity, but although some degree of uniformity was still considered to be necessary a political entity was seen to be sustainable in combination with cultural diversity. Thus, the 'Jenkins formula' has been seen as an initial articulation of the concept of a 'multicultural society'.³⁹

Multiculturalism depends upon the use of the concept of culture, and indeed it is not always clear what is meant by culture in this context.⁴⁰ Multiculturalism is sometimes used descriptively referring to empirical reality of presence of cultural diversity,⁴¹ most often of ethnic character relating to recent immigration, but also to other 'minority' and 'subaltern' groups within a state. Such a demographic discourse of multiculturalism is increasingly present in the debates about a need to accept minorities as a permanent feature of society and has been criticised as labelling of people for the purposes of government, as in censuses.⁴² It appears to be better to reserve the term for normative notions on how to shape a multicultural society and on how government and society should deal with diversity. So the term is conceived in most cases in a normative sense as a vision with an ideological tint, which urges at least recognition and tolerance of difference and sometimes its active stimulation. The first priority of pluralist inclusion model, as suggested by Stephen Castles, is to make immigrants citizens without too many delays. This does not yet mean substantive citizenship, actual equality, which can be achieved when state and society accept that both individuals and

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³⁸ Cashmore, E., 1991: *Dictionary of race and ethnic relations*. London: Routledge (Third edition), p. 148.

³⁹ Rex, J., 1991: The political sociology of multi-cultural society. *European Journal of Intercultural Studies* 2 (1), pp. 7-19.

⁴⁰ See e. g. Castles, S., Cope, B., Kalantzis, M. and Morrissey, M., 1988: *Mistaken Identity: Multiculturalism and the Demise of Nationalism in Australia*. Sidney: Pluto Press, p.121; Medved, F., 1993, op cit.

⁴¹ Sometimes called multicultural society or more abstractly multiculturalism. See Cohen, R. 1993: Conclusion. Ethnicity, the state and moral order, in Toland, J. (ed.), *Ethnicity and the state*, 231-258. New Brunswick, NY: Transaction Publ.; Robertson, R., 1992: *Globalization. Social theory and global culture*. London: Sage.

⁴² See e.g. Sivanandan, A., 1982: *A Different Hunger*. London: Pluto Press.

groups have the right to cultural difference. However, the adaptation to the prevailing rules, which have been laid down by the dominant group, and are culture-specific, is required. The model thus involves recognition of cultures as, in principle, equal. Multicultural society, thus gives to an individual a possibility to freely choose to belong to either a minority or a majority. But it involves more than culture, a simultaneous concern for political integration, social and economic emancipation. In this view it combines measures against socio-economic inequity on cultural lines with the acceptance of the principle of differential treatment of people with different characteristics, needs and desires.⁴³ This is the reason that anti-discrimination legislation, positive action, measures against xenophobia and racism tend to be regarded as aspects of multiculturalism.

The academic debate on multiculturalism has been lively, focusing either on the difference - between, among and beyond cultural groups - and binarity between the public and private sphere that intersects through the theme of difference; or on a critique of existing majority's cultural notions with the aim of building a more open democratic society.⁴⁴

The value of multiculturalism is, as is often stressed, for achieving social cohesion in diverse societies. In the context of citizenship, multiculturalism makes a new statement on substantive citizenship concerning not only immigrants but all citizens as a new model for national identity in a heterogeneous society. The idea of multicultural citizenship implies departing from the idea of all citizens as simply equal individuals and instead combines the principle of universality of rights with the demand of differential treatment for groups, which have differing values, interests and needs. In the post-Marshallian debate on citizenship it may be seen as an attempt to redefine citizenship in a way appropriate to a social and multicultural democracy taking for granted three types of rights, namely civil, political and socio-economic by adding a new component of cultural rights. The central aim is to achieve equity for all members of society, whereby "equity means resolving the tension between formal equality and real difference by means of mechanisms to ensure participation of disadvantaged groups in decision-making and by means of special policies to break down barriers and meet varying needs and

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⁴³ Casiles, S., 1994. *op. cit.*, p. 17.

⁴⁴ See among others Goldberg, T. D. (ed.), 1994: *Multiculturalism: A Critical Reader*. Oxford: Blackwell; Fish, S., 1997: Boutique multiculturalism, or why liberals are incapable of thinking about hate speech, *Critical Inquiry*, Vol 23, No. 2, pp. 378-395; Garcia Düttmann, A., 1997: The culture of polemic: misrecognizing recognition, *Radical Philosophy*, Vol. 81, pp. 27-34; Kymlicka, W., 1989: *Liberalism, Community and Culture*, Oxford: Clarendon Press; Kymlicka, W., 1995: *Multicultural Citizenship: A Liberal Theory of Minority Rights*, Oxford: Oxford University Press; Kymlicka, W., 1997: Do we need a liberal theory of minority rights? Reply to Carens, Young, Parekh and Frost, *Constellations*, Vol. 4, No.1, pp. 72-87; Young, I. M., 1997: A multicultural continuum: A critique of Will Kymlicka's ethnic-nation dichotomy, *Constellations*, Vol. 4, No. 1, pp. 48-53; Gooding-Williams, R., 1998: Race, multiculturalism and democracy, *Constellations*, Vol 5., No. 1, pp. 18-41.

wants."⁴⁵ The "differentiated citizenship" demanding the articulation of 'special' rights for differentiated treatment in order to undermine oppression and disadvantage or "communitarian" citizenship demanding 'group' rights and mechanisms for group presentation, however, is problematic because of the potential tension between individual and collective rights, and indeed the principles of democratic society, equality and liberty.⁴⁶ If multicultural citizenship, so far mainly an abstract characterisation, has a potential, solutions have to be found for practical problems such as how to measure needs, how to secure participation and how to dismantle barriers and how to avoid favouring one group not creating reverse discrimination in a process. The precondition, however, is securing public agreement on the need for change.

In recent years, criticism of multiculturalism has mounted sharply, partially due to social trends such as rising unemployment, the scaling down of the welfare state and the influence of right wing politics. Moves to scale back multicultural policies sometimes defended that they play into the hands of extremists giving people the idea that minorities are receiving preferential treatment. Some newer policies are turning back to a moderate assimilationism. Together with critical analyses of multiculturalism in academic circles there has also been a renewed focus and reappraisal of the notion of assimilation.⁴⁷ It would be wrong however to view the criticism of multiculturalism purely as conservatism, it is confined neither to conservatives nor to members of the majority culture.⁴⁸ One of the objections raised is that multiculturalism views cultural differences as too absolute and too static and that this encourages reification of culture and a cult of difference. It may also give rise to competition for status and power and even to conflict between ethnic groups. It even triggers us-too reaction because it allocates rights to some and not to others. Or it can unnoticeably stray into 'new racism'.⁴⁹ Even in the face of this criticism few experts would argue a return to old-style assimilation policies. A redefined multiculturalism could still be a good guide in the new world order. In the long run, as Jürgen Habermas has argued, a

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⁴⁵ Castels, S., 1994: *op.cit.*, p.16

⁴⁶ Medved, F., 1998: Razprava o multikulturalizmu in individualnih človekovih pravicah (Treatise on multiculturalism and individual human rights), *Razprave in gradivo* 33. Ljubljana: Inštitut za narodnostna vprašanja (Treatises and Documents, Institute for Ethnic Studies), pp. 269-278.

⁴⁷ Glazer, N., 1993: Is assimilation dead? *The Annals of the American Academy of Political and Social Science* 530, pp. 187-202.

⁴⁸ See among others Mitchell, M., Russel, D., 1996: Immigration, citizenship and the nation-state in the new Europe, in Jenkins, B., Sofos, S. A. (eds.), *Nation & identity in contemporary Europe*, London: Routledge, pp. 54-80. Collinson, S., 1993: *Beyond borders. West European migration policy towards the 21st century*. London: Royal Institute of International Affairs; Schlesinger, A. M., 1991: *The disuniting of America. Reflections on a multicultural society*. New York: Norton & Company; Bissoondath, N., 1994: *Selling illusions. The cult of multiculturalism of Canada*. Toronto: Penguin books.

⁴⁹ See Alami, A., Schierup, C.-U. (eds.), 1991: *Paradoxes of Multiculturalism*. Aldershot: Avebury.

democratic society has no alternative but to incorporate immigrants as citizens, even if this means institutional changes in major subsystems such as political and economic structure. He talks of two stages of assimilation, the first comprising acceptance of constitutional principles in which autonomy of the citizen is conceived so that what Rawls calls public use of reason is practised; the second means an assimilation which takes place on the level of ethnic-cultural integration, but which the state has no right to demand.⁵⁰ This is similar to the earlier Gordon's model of gradual immigrant participation in different areas of society, where integration is seen as a process towards assimilation, distinguishing structural (economic, social and political) and cultural integration.⁵¹

Though terms in which policy objectives are cast differ from country to country, as well as areas it targets, policy debates and changes are taking place almost everywhere. In the European Union "fair treatment of third country nationals" has been outlined as one of the essential elements of common migration and asylum policy and further elaborated upon in the communication on Community immigration policy.⁵² A good deal of consensus prevails that integration is a two-way process, involving adaptation on the part of both immigrant and society, and on what structural integration implies. Immigrants should benefit from comparable conditions, living and working, to those of nationals, including voting rights for long-term residents. The appreciation of the value of pluralism, is based on the recognition that membership of society is based on a series of "rights but also responsibilities" for all of its members, nationals or migrants. There should be respect for human rights and human dignity, respect for cultural and social differences and for fundamental shared principles and values. Furthermore, the Charter of Fundamental Rights of the European Union⁵³ is seen as to provide a reference for the development of the concept of "civic citizenship" in a particular Member State for third country nationals. Enabling migrants to acquire such a citizenship after a minimum period of x years might be sufficient guarantee for many migrants to settle successfully into society or be a first step in the process of acquiring the nationality of the Member State concerned.

In this sense the basic standard for inclusion is based on a specific notion of society, which can be interpreted within the framework of Reiner Bauböck's political concept of society. This is wider than the notion of polity including only

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⁵⁰ Habermas, J., 1993: Die Festung Europa und das neue Deutschland. *Die Zeit*, Hamburg, 28 May.

⁵¹ Gordon, M. M., 1964: *Assimilation in American Life. The Roles of Race, Religion and National Origins*. New York, NY.

⁵² Communication from the Commission to the Council and the European Parliament on a Community Immigration Policy, Brussels, 22 November 2000 COM (2000) 757 final (...)

⁵³ Charter of Fundamental Rights of the European Union, *Official Journal of the European Communities* C 364, 18.12. 2000.

citizens, whose state membership is of a political rather than social nature, and narrower than sociological concept of society as an open system of interaction and communication. The outline of political concept of society can be determined by applying the norm of democratic legitimacy to the societal instead of the political sphere. From the perspective of individuals, a society in this sense comprises all whose social position durably relates them to a certain state so that they depend on this state for their rights and protection. From the perspective of the state a society is a basic ensemble of populations permanently affected by its collectively binding decisions.⁵⁴ The convergence between rights and duties of resident aliens and of citizens demonstrates that the basic democratic norm of legitimacy applies to a resident population rather than only to those individuals who are formally recognised as members of polity. The boundary of this concept of society is the result of the exercise of political power and the envisaged 'civic-residential citizenship' the result of the social relationship with the state. This would be a kind of 'denizenship', distinct to full citizenship, especially concerning the right to indefinite abode and voting rights, particularly at the state parliamentary level.⁵⁵ The boundary of polity can be controlled so that individuals who are not admitted are excluded regardless of their social relation to the state. Admission to the polity remains under the control of the receiving state, because the essential qualifying criterion for naturalisation is not the period of residence but a credible change of loyalty. In this view the boundaries of polity do not relate to a territory or to the population living there but emerge in interaction and confrontation with other polities. This membership is a legal one, the argument of mutually exclusive nature of sovereignty, still the conventional wisdom that supposedly justifies discretionary procedures of naturalisation and the legal discrimination of foreigners. Liberal democratic legitimating requires inclusion of the whole society in the sense that distribution of rights must correspond to the impact of political power and in the sense that the polity be genuinely open for the admission of everybody who can claim membership in society. Of course, it is possible to argue that the acceptance of foreign status is voluntary, the result of a social contract gained by admission to the territory or not to choose to naturalise. In contrast to automatic acquisition of nationality at birth, a citizen does not chose to be a member, so one could say that from the perspective of a liberal democratic polity inclusion seems more important than choice. The norm of inclusiveness thus supports an opposition to restrictive naturalisation rules. Naturalisation however is, or ought to be, an act of consent based on choice.

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⁵⁴ Cf. Bauböck, R., 1994. *op.cit.*

⁵⁵ See Locke, J., 1956: *The Second Treatise of Government and A Letter Concerning Toleration* edited with an introduction by J. W. Gough, New York: Macmillan; Hammar, T., 1990: *Democracy and the Nation-State. Aliens, Denizens and Citizens in a World of International Migration* Alenxhot: Cower.

Table 1: Criteria/conditions for facilitated and impeded naturalisation (nationality by an application)

Dominating principles	FACILITATED ADMISSION	IMPEDED ADMISSION
	Shorter period of residence and/or optional admission	Additional criteria and conditions for integration Emphasis on discretion
Territorial (<i>ius soli</i>) Birth Residence (<i>ius domicili</i>)	<ul style="list-style-type: none"> ➤ Birth ➤ (Long-term) residence* ➤ Former citizenship 	<ul style="list-style-type: none"> ➤ Economic integration ➤ Social integration ➤ No threat to public order ➤ "Communicational" language skills
Descent (<i>ius sanguinis</i>) "Ethnic" origin Family membership	<ul style="list-style-type: none"> ➤ "Co-ethnic" immigrants ➤ Marriage/registered partnership, extended to family members and adopted 	<ul style="list-style-type: none"> ➤ Proficiency in language ➤ Cultural integration
Political consent	<ul style="list-style-type: none"> ➤ Special services for the state ("national interest") ➤ "Political" refugees ➤ Stateless persons 	<ul style="list-style-type: none"> ➤ Political knowledge ➤ Loyalty ➤ Renunciation of previous citizenship

* >10 years of lawful and habitual residence; see European Convention on Nationality, 1997; ETS no. 166, Article 6 (3).

Naturalisation by definition is a transition from one legal status to another. The etymological roots of the term suggest the receiving group to be a natural one and require that new members of a 'nation' change their nature. This implies a change of identity, thus a change of culture as the second nature.⁵⁶ However, frequently the term appears to be closer to the residential principle, naturalisation signifying a 'natural' way of obtaining a similar status, as it is 'natural' for nationals. In legal traditions naturalisation meant extension of certain rights and privileges rather than a change of identity.

Three principles are underlying laws on nationality: territory, descent and consent (see Table 1). The first two are passive and objectivist mechanisms of attribution, no state relies entirely on either one or the other. Territorial principle minimises the potential incongruities between the population over which territorial sovereignty can be rightfully exercised and the collective of those formally recognised as citizens. This relation can be stabilised by two criteria: birth in the territory and residence/domicile, referred to as *ius domicili*.⁵⁷ Descent operates both, in the reproduction of membership and non-membership, citizens are then a self-reproducing group; territory and people being two separate fields of sov-

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⁵⁶ See Fehér, F., Heller, A., 1994: Naturalization or "Culturalization"? in Bratslavsky, R. (ed.) *op.cit.*, pp. 135-147.

⁵⁷ Huzar, T. 1990, *op.cit.*

ereignty. *Ius sanguinis*, the prevailing rule, has in fact often been combined with *ius soli*, cumulatively or alternatively, either for restriction or extension beyond descent and territory. Citizenship is not an ascriptive feature, still it is acquired at birth and intended to last for life.

All states' rules for naturalisation emphasise this temporal stability by inhibiting frequent change. There are political reasons for enhancing stability, the exercise of political power is territorially constraint by territorial sovereignty but it does not require all who are liable to obey the laws to be bound to the state by any lasting ties. However, any system of government calls for a durable relation between the state and those to whom it can impose obligations. There is also a strong democratic argument in favour of stability. For citizens to participate in political deliberation there needs to be a common temporal perspective.

Consistent with the principle of descent, which appears the most obvious, is extension of citizenship to 'co-ethnics' and those who become new members of families already composed of citizens, frequently referred to as "extraordinary" or "facilitated"-naturalisation. Naturalisation depends on voluntary application by an individual who wants to become a citizen, yet admission depends on extended dominating principles. An individual applies for membership and the State authorities, empowered by internal consent of present citizens, grant it. Admission is consensual only, if both sides are free to say no.

Naturalisation criteria may be split into two groups: on the one hand those which are used in order to facilitate naturalisation and on the other hand conditions which are imposed to make naturalisation less easily accessible. The latter more than the former are the so-called integration conditions. Currently there are no accepted standards for integration and naturalisation, states' laws and practices diverge significantly. In the endeavour of attaining seamless integration, states bound by the European Convention on Nationality shall provide for the "possibility of naturalisation of persons lawfully and habitually resident on its territory."⁵⁸ The threshold of residence is set to ten years. In combination with facilitating criteria and tolerance of multiple citizenship this is a substantial improvement. In my view however, it is not the far stretching measure required for legal and societal integration.

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⁵⁸ European Convention on Nationality, 1997: ETS no.166. Article 6 (3).

HUMANKIND HAS NO NATIONALITY

(Lord Russel-Johnston, 1999)

So, where does this leave me as a person? This has been in many ways a personal report. I have attempted to show that my nationality is only one of my identities, and as the references of my identity grow it would be more correct to talk about my "differentity", which is an antithesis of difference of which some varieties of multiculturalism are so much about.

The challenging tensions between nationality, integration and multicultural sensibility have changed our understanding of national membership, are changing it or ought to change it because of our changing understanding of state and the nation and self-understanding. These tensions take place not only within the classical state but also at the international and supranational level. A focal point of the latter discussion concerns citizenship of the European Union, a first attempt to construct a citizenship beyond the nation-state. Much has already been said about it, what it might add and to whom with respect to rights and duties almost forgotten, and who might lose.⁵⁹ But perhaps the main question is why a new concept of citizenship has been established. Lacking ontological independence, it remains a political riddle. In a world of personal differentity and fragmented state sovereignty however, where states cannot even pretend anymore to have control over their most elementary functions, provisions for material welfare and individual and collective security, a new concept of citizenship might be a fitting project. Nationality, being "also an integral part of the identity of the State,"⁶⁰ leads me to believe, we ought to rethink not what is the 'essence of the nation' but rather what is the 'essence of democracy'. In an integrated Europe there will be no *demos* without democracy. Hence, I would reaffirm that democracy, in the sense of majority rule, presupposes some fundamental pre-legal conditions and some fundamental normative political and moral principles. Democracy as a political institution needs a civil society. This does not need to coincide with a *Schicksalgemeinschaft*, a homogeneous ethnic and linguistic

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⁵⁹ See e.g. Kojanec, G., 1998: The citizenship of the European Union, in *Aan de ...op.cit.* pp. 133-138; D'Oliveira, J. H. U., 1993: European Citizenship: Its Meaning, Its Potential, in Monar, J., Ungerer, W., Wessels, W. (eds.): *The Maastricht Treaty on European Union*. Brussels. University Press; O'Leary, S., 1996: *The Evolving Concept of European Citizenship*. The Hague: Kluwer Publ.; O'Keefe, D. O., Twomey, P. (eds.), 1993: *Legal Issues of the Maastricht Treaty*. London: Chancery Press; Soysal, Y. N., 1994: *Limits of citizenship. Migrants and postnational membership in Europe*. Chicago: The University of Chicago Press

⁶⁰ Krüger, H.-C.: *Opening Speech. 1st European Conference on Nationality: "Trends and Developments in National and International Law on Nationality," Strasbourg, 18 and 19 October 1999*, in CONE/NAT (99) PRO I, p. 9.

community. It is time for Europe, her states and peoples itself to integrate and leave behind the nation of blood and soil. "We have to find a way to reach beyond."⁶¹

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⁶¹ Lord Russell-Johnston: Humankind has no nationality; Inaugural speech to the Parliamentary Assembly, Strasbourg, 25 January 1999, in *Humankind has no nationality*, Speeches 1999, Council of Europe Publishing 2000, p. 10.

RESUME

Nous vivons dans une époque de globalisation où les états sont fixes dans leur territoire et où l'appartenance à une société devient de plus en plus mobile, allant au delà des frontières de territoire, de nationalité et de citoyenneté. Les dimensions additionnelles à la géographie des relations sociales que la globalisation a donné ont contribué à une époque obsédée par les questions d'identité individuelle ou collective. Dans la plupart des sociétés européennes le traitement du fameux 'autre', l'autre dans nous même, l'autre parmi nous et l'autre qui frappe à nos portes et à nos frontières est une question qui figure au premier rang sur l'ordre du jour politique et publique. Il existe un besoin de développement des normes internationales dans le domaine de la nationalité et un besoin de changement dans les règles et les pratiques en ce qui concerne la citoyenneté. Néanmoins, à l'aube de ce nouveau millénaire, le vocabulaire classique de nationalité, de l'Etat, de la 'Nation' et du 'Peuple' semble provoquer des réactions compliquées exprimant une grande inquiétude qui reflète les dilemmes les plus profonds concernant les moyens de procéder à l'intégration au niveau national, international et supranational. Des connaissances de la nationalité, et plus particulièrement des lois sur la nationalité, sont généralement réservées aux spécialistes. Pourtant, les définitions légales de qui appartient, et à quelles conditions, aux unités politiques connus couramment comme des Etats-nations, ont inévitablement, intentionnellement ou pas, en association avec d'autres politiques et lois, influencées le sentiment d'identité nationale. L'examen et les modifications des projets des Etats, du Conseil de l'Europe et de l'Union européenne demandent que les personnes impliquées posent des questions - des questions qui méritent une analyse critique et qui sont importantes à l'action pratique, des questions du genre fondamentales. Le but de ce texte est de mettre quelques unes de ces questions sur 'une carte mentale' en examinant l'interaction entre la nationalité et l'intégration ou plutôt la nationalité et la citoyenneté dans un Etat par rapport à l'appartenance à une société, surtout en ce qui concerne l'appartenance des immigrants de longue date. Pour faire ceci le texte examine brièvement le sens de la nationalité comme lien juridique, politique et mental à l'Etat utilisant la distinction entre la nationalité comme citoyenneté nominale et comme citoyenneté substantive comprenant les droits et les devoirs. La marque la plus profonde et la plus évidente de la citoyenneté est que les citoyens constituent les 'demos' du régime, la citoyenneté étant non seulement un signe de l'autorité publique mais également de la réalité sociale du peuple et de l'identité du régime. Il est prétendu que dans les Etats-nations modernes européens, les formes sociales les plus prééminentes que la modernité a produites, une rupture entre 'ethnos' et 'demos', ne s'est pas encore réalisée. Des trois modèles concernant la citoyenneté pour les immigrants, le modèle pluraliste inclusionniste semble offrir les meilleures

perspectives pour rompre les tensions inhérentes au rapport entre l'immigration, l'intégration et la citoyenneté. Par conséquent, la signification de l'intégration et du multiculturalisme est couverte brièvement, notamment le potentiel du multiculturalisme pour atteindre une cohésion sociale et pour engendrer une déclaration sur la citoyenneté substantive. Finalement, particulièrement aux vues des propositions récentes de l'Union européenne, "denizenship" comme résultat du rapport social avec l'Etat est traitée dans le cadre du concept politique de la société dans son rapport avec le régime et la naturalisation d'un individu, qui est, ou devrait être, un acte de consentement fondé sur le choix. Il me semble que il y a une tendance à long terme dans la plupart des pays vers l'incorporation croissante des personnes légalement et habituellement résidentes dans la société civile et l'Etat, il y a une libéralisation progressive des règles sur la naturalisation, l'atténuation de *ius sanguinis* et l'acceptation, ou au moins la tolérance, de la pluralité de nationalité. Cependant, le défi en perspective n'est peut-être pas de trouver les solutions parfaites à la loi nationale et internationale sur la nationalité, mais de trouver un concept de coexistence que jusqu'ici personne n'a entendu ni imaginé mais qui est positif et adapté à tous.