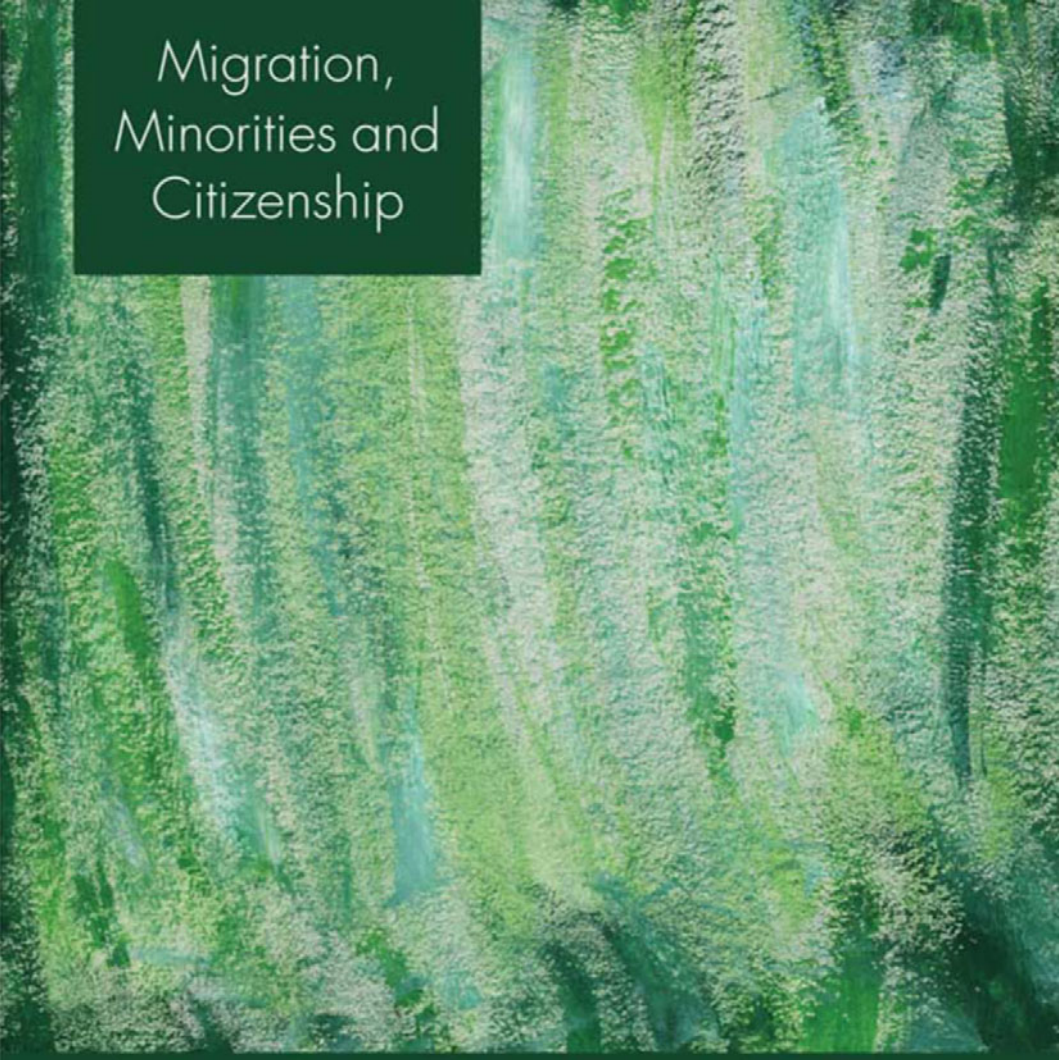

CITIZENSHIP ACQUISITION AND NATIONAL BELONGING

Migration, Membership and the Liberal Democratic State

Edited by Gideon Calder, Phillip Cole and Jonathan Seglow

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Migration, Membership and the Liberal Democratic State

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1

Introduction: 'Border Crossings' – The Dimensions of Membership

Phillip Cole

The theoretical landscape

This collection of essays explores the issue of citizenship acquisition from the perspective of political theory, and looks at ways in which liberal democratic states can develop systems of admission that meet its core values of moral equality, individual liberty, and social justice. This introductory essay provides the theoretical and historical background for the discussions that follow: while they explore possible futures, this essay explores the recent past and the present. I set out the main features of the theoretical landscape of citizenship in the next four sections, and the recent past and present in the subsequent two sections.

The idea of citizenship has, in many ways, dominated political theory since the beginnings of that discipline, as it has explored the core questions of what it is to be a political community and what it is to be a member of such a community. There are analogies with other forms of association and membership, such as families and clubs, but the political community has remained distinct, and being a member of a political community has remained a unique form of belonging, which cannot be adequately captured through those analogies. Along some dimensions, citizenship has traditionally been taken to be a relatively straightforward kind of belonging: for example, it is shared in common by all members of a particular state, and consists of rights and duties shared with other members, and owed to them and to the state itself as their representative. This belonging has been given a range of foundations to ensure that citizens feel they have something in common beyond mere legal status, from a republican shared interest of place to a shared national identity, which acts as the basis of mutual recognition. In contemporary

political theory the latter approach has become dominant, as citizenship has been shaped within the context of a particular kind of political community, the nation state. The nation state is an authority that has sovereign power and control over a body of people united by a common identity and a geographical territory. But notice the ambiguity of this sentence: it can be read as claiming that the state has sovereign power over a body of people and a geographical territory, or as claiming that the body of people is united by a common identity and a geographical territory. Both ways of reading it make sense. An additional element for democratic communities is that the sovereign power held by a nation state is granted to it by the body of citizens such that it acts as their representative. And so it is the idea of the citizen that gives the democratic political community its form and content.

Two concepts of citizenship

However, political theories take it as given that people are citizens of the political community in question, and all questions of justice are to be addressed and resolved amongst equal citizens. The question of *becoming* a citizen is not addressed. Or if it is addressed, it is interpreted as the question of how citizens *develop* their capacities for citizenship, rather than the question of how a person acquires citizenship in the first place. In a seminal discussion published in 1994, Will Kymlicka and Wayne Norman distinguished between citizenship-as-desirable-activity and citizenship-as-legal-status, where the former means that 'the extent and quality of one's citizenship is a function of one's participation', and the latter is 'a full membership' of the community in a purely legal sense (Kymlicka and Norman, 1994, p. 353). They argued that the two concepts should not be conflated, and that – in their survey of literature on the subject observed – the vast majority of theorists were concerned with citizenship-as-desirable-activity:

> . . . these authors are generally concerned with the requirements of being a 'good citizen'. But we should expect a theory of the good citizen to be relatively independent of the legal question of what it is to be a citizen, just as a theory of the good person is distinct from the metaphysical (or legal) question of what it is to be a person.
>
> (Kymlicka and Norman, 1994, p. 353)

If Kymlicka and Norman are correct, political theorists can proceed with constructing theories of good citizenship based around the idea

of participation and, with a clear conscience, leave the question of citizenship-as-legal-status for the lawyers – the two questions are disconnected.

However, the thesis of this book is that the question of the legal acquisition of citizenship is a central and theoretically complex area for political theory. The distinction between the person/good person shows why. For Kymlicka and Norman, there seems to be a moral problem of what it is to be a good person, which is separable from the legal and/or metaphysical question of what it is to be a person. But it is not true that the concept of a person is simply a legal and/or metaphysical concept – it is a profoundly ethical concept, in that personhood itself is a status that carries moral significance whether or nor one is a *good* person. That someone is a person in itself imposes moral constraints in the form of rights and responsibilities held by persons generally, not merely good persons. Similarly, the idea of citizenship is a moral concept independent of what makes a *good* citizen – because that someone is a citizen imposes rights and responsibilities held by citizens in general, whether or not one is a good citizen. And so the difference between citizenship-as-desirable-activity and citizenship-as-legal-status cannot be that one is a moral concept and the other is not: they are both profoundly ethical concepts. Another difference that Kymlicka and Norman pick out is that, in general, the former is a 'thick' concept while the latter is theoretically 'thin', and so, presumably, uninteresting, from a theoretical point of view. But as we shall learn from the discussions in this collection, citizenship-as-legal-status is theoretically rich and complex.

Citizens and outsiders

Another difficulty is that these two concepts of citizenship are theoretically entangled with each other, such that the ideal of citizenship as a practice cannot be explored without also addressing the ideal of citizenship as a status. The fact is that the institution of citizenship cuts in two directions. First, it makes a distinction between *citizens* and *subjects* by drawing a boundary *within* the community. Within a liberal polity the internal boundary cuts across the individual, in that all members are *both* subjects and citizens: they are subject to the law, but they are sovereign over it by virtue of their citizenship. In the ideal liberal polity, there are none who are purely sovereign (above the law) and none who are purely subject to it. Second, the institution of citizenship

makes a distinction between *members* and *outsiders* by drawing a boundary *around* the community. In an important sense, the citizens/outsiders boundary is a distinction between people, as people are either members or they are not (although, as we shall see, most liberal polities, in practice, allow a *partial* membership); while the citizens/subjects boundary is a distinction, not between people, but between *activities*: the public activity of the citizen and the private activity of the subject. Again, in the ideal liberal polity no members are confined *only* to the private sphere.

The problem comes when we realize that these two distinctions are inextricably entangled: the citizens/outsiders boundary is written into the citizens/subjects boundary, and this is why the question of internal membership cannot be separated from the question of citizenship acquisition. The point of the citizens/outsiders boundary is to constitute and exclude outsiders – but from what? Not necessarily from the territorial boundaries of the liberal state; no liberal state seeks to exclude non-citizens as such from its territory, as migration is crucial to economic prosperity. Rather, what is crucial is that outsiders are excluded from *participation* in certain activities. If the citizen is entitled to participate in the most valued activities of the community, then the non-citizen must be excluded from those activities, or else the very status of citizenship is devalued. Non-members are outsiders in this vital sense: they are permitted to enter the private realm of the state, but are excluded from the public realm; they can be subjects of the law, but not sovereigns over it. And so the citizens/outsiders distinction is as much connected to activity as the citizens/subjects boundary: the border that is policed falls in exactly the same place.

Why should this matter? In fact it raises a number of tensions for the formation of a political community. First, it creates a category of persons who are not recognized by liberal theory, who are purely subject to the law with no sovereignty over it. Where their presence is long term, in the form of 'guest workers', for example, this is particularly discomforting, especially for the 'guests'. This can be seen in practice in the European Union (EU), where citizens of member states have a superior status over non-EU nationals. Francis Webber comments that the way the EU was built created a two-tier workforce in which 'guest workers remain hostage to the "host" community', while citizens of members states have freedom of movement; and even in their 'host' communities, guest workers 'did not have any rights worth speaking of' (Webber, 1991, p. 12). Michael Spencer points out that non-EU nationals

> . . . are reliant on national laws only, which in many cases relegate them to second-class status with minimal rights in such areas as protection from discrimination and access to social security, health and welfare benefits.
>
> (Spencer, 1990, p. 45)

For Michael Walzer, this raises a painful problem at the level of theory. In effect, argues Walzer, this approach sets up two stages in the admissions process: (1) letting someone cross the territorial boundary; and (2) naturalization (Walzer, 1983, p. 52). This creates a distinction between the economic nature of the community and its political nature:

> As a place to live, it is open to anyone who can find work; as a forum or assembly, as a nation or a people, it is closed except to those who meet the requirements set by the present members.
>
> (Walzer, 1983, p. 58)

But these two visions of the state cannot coexist, and so the arrangement fails on a point of justice:

> Men and women are either subject to the state's authority or they are not; and if they are subject, they must be given a say, and ultimately an equal say, in what the authority does.
>
> (Walzer, 1983, p. 61)

For Walzer, anybody who is subject to the law must also be sovereign over it: any situation that creates a class of people who are subjects only is manifestly unjust from a liberal point of view, a clear contradiction of the liberal democratic project; but this is exactly what liberal democratic states are currently allowing to happen. The existence of 'resident aliens', in whatever form they take, raises profound problems for liberal theory.

There is a second problem. While the citizens/subjects and citizens/outsiders boundaries draw their distinctions in separate ways, they police them in the same location. The citizens/subjects boundary is based on a distinction between activities, not people: those activities proper to the public sphere of political citizenship. The citizens/outsiders boundary is based on a distinction between people, but in practice it is policed through controlling activities: outsiders cannot participate in the public activities definitive of citizenship. This creates potential dangers for certain groups of full members of the community.

As the boundaries between citizens/subjects and citizens/outsiders coincide, the way the external boundary is policed will have an impact on the way the internal boundary is policed. In effect, any group that shares characteristics with those identified as outsiders will themselves be in a vulnerable position. Their membership will be constantly questioned; they will be subjected to forms of surveillance from which other members are free; and their access to the public sphere of citizenship will become hazardous. If the external boundary of the community is policed by criteria based on 'race', however indirectly, then those members who share the criteria will be subjected to racism, from other groups and individuals who refuse to identify with them, and from institutions. The institutional racism is inevitable, as the external boundary is increasingly policed at access points to public goods such as social security, health and education; and so members of these groups will find it increasingly difficult to gain access to public institutions, as institutions such as those associated with the welfare state are used as a site of immigration control (see Gordon, 1989, pp. 7–8; Lister, 1990, p. 53). The policing of the external boundary of the state – the practices of citizenship acquisition – has profound implications for the nature of the political community.

Crossing borders

While liberal political theory works with an elegantly simple model of citizenship with only two dimensions – inside/outside – the actual practice of citizenship in liberal democratic states has remained enormously varied and complex. Citizenship can be acquired in two distinct ways: (1) by birth and (2) by immigration. Citizenship by birth can itself be acquired in two distinct ways: (1a) by being born within the territory of the state, regardless of the status of one's parents (*jus soli*); or (1b) by being born to parents, at least one of whom is already a citizen of the state (*jus sanguinis*). Citizenship by immigration can also be acquired in two ways: (2a) by acquiring a relationship with someone who is already a citizen, for example through marriage; and (2b) through length of residence within the state. All four methods, of course, admit of wide variety and interpretation in practice, and as states have unlimited control to manipulate the four conditions of citizenship, they can closely control the character of their membership. Jules L. Coleman and Sarah K. Harding make a distinction between those states that have a concern with preserving some kind of cultural identity, and those that do not:

> . . . those nations which focus on cultural integration attribute citizenship solely on the basis of parentage, typically an indication of cultural affiliations, whereas most of the other countries attribute citizenship in other circumstances.
>
> (Coleman and Harding, 1995, p. 34)

Another dimension they draw attention to is the extent to which under some practices citizenship is acquired as a matter of right once certain conditions are met, and the extent to which it remains at the state's discretion: again, states that are concerned to control the 'character' of their citizens are more likely to retain discretionary control over whether citizenship is granted (for example, the United Kingdom).

Another complexity with regard to acquiring citizenship through immigration rests on the fact that, far from there being a simple inside/outside boundary, the would-be immigrant must cross a number of complex spaces before becoming a citizen. First, they must access the geographical territory, and this may entail them being illegal, irregular or undocumented immigrants – this is a complex and under-theorized status, and as we can see from the different ways of describing that space. Second, they can establish legal presence within the territory – this is normally done prior to entry, so that most legal migrants do not first pass through the space of 'illegal' presence; but increasingly legal presence is becoming unstable, so that significant numbers of migrants can find themselves travelling 'backwards' as it were, from legal presence to an 'illegal' status. Third, migrants can access the right to remain indefinitely – they become what some have termed 'denizens'. Fourth, they can gain legal citizenship, and become full members of the political community – again, though, we have to be aware that for immigrants this journey can go in reverse, and they can be deprived of their citizenship under certain circumstances. Fifth, and finally, they can access the national identity.

Access can be blocked at any of these boundaries, either formally by the state or sometimes informally in case of national identity through the hostility of certain elements of the resident population. Equally, we must remember that the migrant may refuse to cross these boundaries: they could choose to remain undocumented, or they may seek only temporary residence, or not seek full citizenship, or refuse to 'assimilate' to the national identity. And so the presence of the migrant in political practice is not simply a binary between the inside and the outside, but is a complex relationship with many dimensions. Many of

the tensions and problems, both in theory and practice, arise from the relations between these five different spaces.

The attention of governments has recently turned to the first of these, with the growth of fences and detention centres around and within liberal democratic states designed to keep the outsider from gaining access to territory; one important question addressed in this collection is whether the movement towards more 'secure' borders is compatible with the values of the liberal state, and, if not, whether liberal states are justified in seeking to protect their internal values through illiberal border controls. And one consequence of states making access to territory more difficult is the growing presence within the territory of illegal or irregular migrants. How should the liberal state respond to that presence? One expensive option is to pursue and expel those present illegally; a more economic but perhaps politically costly option is to regularize that presence, and merge these first two boundaries. However, there still remain a bundle of questions and tensions around temporary workers within states. What rights, if any, should temporary workers enjoy, and to what extent ought states to open the possibility of permanent residence to these workers?

The third space, that of access to residency, means that there are large numbers of non-citizen residents within the state who are legally present and who enjoy as bundle of rights alongside citizens. Given the growing concern in many liberal democratic states about the importance of mutual recognition in the form of national identity, the presence of non-citizen residents becomes problematic. How should the state manage this presence? Indeed, should it seek to discourage it? Meanwhile, legal access to citizenship itself has always been varied: by location of birth, by nationality of parents or grandparents, by length of residence, through work, through marriage, by displaying sufficient civic, cultural or historical knowledge, being of good health, etc., with different states operating with different bundles of these strategies. This diversity reveals a space for normative argument about which of these requirements are justifiable and in what contexts and circumstances. And this argument in turn is grounded in different conceptions of citizenship itself. Communitarian perspectives, for example, stress the importance of shared values, cultural knowledge and blood ties, while civic republican approaches base citizenship centrally on residence, but insist on contribution to an ongoing democratic project.

The fifth boundary of national identity concerns the extent to which migrants should be integrated into the nation. In theory citizenship is founded on a shared national identity, which acts as a source of stability

and orientation for its members, promotes social cohesion, provides a setting for democratic participation, and has been a source of motivation for citizens to make sacrifices that social justice demands. The political reality is that migration has created a variety of sources of identity within the liberal state, such that mutual recognition has become problematic. One response has been the strategy of multiculturalism, such that it is cultural diversity that is recognized rather than a purely political one. But such strategies have not been universally welcomed or regarded as particularly successful in addressing the problem of an inclusive national identity. As mentioned above, another aspect to this particular question is the refusal of migrants to access national identity, thus creating new forms of identity within and across the nation state boundary. Recent work has identified 'transnational identity' as an important dimension of belonging that political theory needs to address. Another aspect of national identity is the extent to which it informs the other boundaries of membership: to what extent is access to territory, residence and legal citizenship being shaped by a conception of a national identity, and to the extent that it is, what tensions and problems does this raise for migrants?

Citizenship and racism

The history of immigration control is deeply ingrained with racism. The formalization of racism in immigration law can perhaps first be seen towards the end of the 19th century when a movement grew towards the restriction of movement as a response to Chinese labour migrating westward. What follows is the 'enactment of racially and culturally exclusive immigration laws' (Plender, 1988, p. 70): the Chinese Exclusion Act in the United States in 1882; the Chinese Immigration Act in Canada in 1885; and Australia's Immigration Restriction Act of 1901. The rise of immigration laws at the end of the 19th century was, therefore, based on racism, and the laws themselves were explicitly based on racist theories and mythologies. Robert A. Huttenback provides a detailed examination of racist immigration controls throughout the British Empire between 1830 and 1910, focusing on the self-governing colonies of Australia, New Zealand, Canada and Natal (South Africa). He describes a situation in which the imperial authorities were in conflict with the self-governing colonies over their wishes to employ explicitly racist restrictions aimed at free 'coloured' migrants. A policy was needed that would not involve 'shattering the fragile hypocrisy surrounding the imperial philosophy of equality' (Huttenback, 1976, p. 138). In Natal in

1897, Act 145 was introduced, which imposed two tests: first a property qualification (£25), and second an education test focusing on language ability, which was to be administered at the discretion of the immigration officials (Huttenback, 1976, p. 141). This was to be administered 'in such a way that Europeans were to be judged eligible to enter Natal while all Indians were not' (Huttenback, 1976, p. 141). The Natal prime minister stated in 1897:

> It never occurred to me for a single minute that it should ever be applied to English immigrants. . . . Can you imagine anything more mad for a Government than that it should apply to English immigrants? The object of the bill is to deal with Asiatic immigrants.
>
> (Huttenback, 1976, p. 141)

And so the governor of Natal could inform the United Kingdom government that 'the main object of the proposed law is to prevent Natal from being flooded by undesirable immigrants from India' (Huttenback, 1976, p. 141), and at the same time the imperial government could reassure its Indian subjects that 'the Immigration Restriction Act . . . does not affect British Indians as such' (Huttenback, 1976, p. 141). The Natal formula was seized upon as the solution to the Empire's problems, was adopted throughout the self-governing colonies (Huttenback, 1976, p. 317) and was embodied in the white Australia policy of 1901 (Huttenback, 1976, p. 280). Huttenback makes it clear that 'Racial hatred was the vital driving force behind legislation' (Huttenback, 1976, p. 323), along with a profound fear of miscegenation (Huttenback, 1976, pp. 323–324).

The white Australia policy itself is, of course, a primary example of racist exclusion, and it is also an illustration of how immigration rules work alongside internal exclusions. James Jupp points out:

> White Australia cannot be understood simply as a restrictive immigration policy. It was central to building a white British Australia from which all others would be excluded, whether recent Chinese immigrants or the original Aboriginal inhabitants.
>
> (Jupp, 1998, p. 73)

The Immigration Restriction Act remained in force from 1901 until 1958, and was part of a framework of colonial, commonwealth and state law 'to prevent anyone from contributing to Australia nation-building who was not of European descent and appearance' (Jupp, 1998, p. 73). Therefore people defined as 'aboriginal natives' of Australia, from Asia

Africa and from the Pacific Islands were to be excluded from citizenship. As a policy it 'was almost completely effective between the 1890s and the 1960s as a form of immigrant exclusion' (Jupp, 1998, p. 77), and, says Jupp, however the exclusionary regulations were framed, and whatever the official justifications for them, 'White Australia was overwhelmingly racist in its motivation and in the definitions it used' (Jupp, 1998, p. 73).

Europeans, especially Eastern Europeans, also have been the targets of exclusionary immigration regimes. In 1921 the United States introduced the Emergency Quota Act, which contained race-based exclusions, and which was strengthened in 1924 and 1929. Elliott Robert Barkan comments: 'America had effectively blocked the way of particular Europeans and others whom they deemed less desirable' (Barkan, 1996, p. 14). Stephen Jay Gould notes that the 1924 Immigration Restriction Act was heavily influenced by the same eugenicist theories of racial inferiority that were to inspire the Nazi leadership of Germany and its supporters in the next decade. 'The eugenicists battled and won one of the greatest victories of scientific racism in American history' (Gould, 1996, p. 262). The act set quotas designed to restrict immigration from Southern and Eastern Europe, in favour of the 'superior' Northern and Western Europeans. These quotas slowed immigration to the United States from Eastern and Southern Europe 'to a trickle' (Gould, 1997, p. 263). Gould observes the connection between these immigration restrictions and the Holocaust in Europe: 'Throughout the 1930s, Jewish refugees, anticipating the holocaust, sought to emigrate, but were not admitted. The legal quotas and continuing eugenical propaganda, barred them even in years when inflated quotas for western and northern European nations were not filled' (Gould, 1997, p. 263). Between 1924 and 1939, perhaps up to 6 million Southern, Central and Western Europeans were banned from entering the United States by the quotas, unknown numbers of whom were to be murdered in the extermination camps.

Some would argue that race still informs the structure of immigration control. In the United States national origin quotas were abandoned in 1965 (Barkan, 1996, p. 116), and were replaced by a system of visas based on non-racialized categories. The main groups were family-based, employment-based and 'diversity' immigrants. However there is still some concern over how these categories work in relation to race issues, as each has its own priorities – within the family category it is unmarried sons and daughters of US citizens, and under the employment category it is people with 'extraordinary' abilities (see Richmond, 1994, pp. 142–143). Peter Schuck allows that racism 'plays a less significant

role than it did before 1965' (Schuck, 1998, p. 327), but points out that 'three decades after the national origins quotas were repealed, we still select most immigrants according to their national origins' (Schuck, 1998, p. 328). As the case of the Natal formula shows, it is clearly possible to devise admissions criteria that make no explicit reference to race or national origin, but still work to exclude certain racial and national groups.

The United Kingdom certainly developed increasingly racialized regulatory frameworks. Before 1948 citizenship was granted by *jus soli* to anybody born within its colonial territories and independent member states of the Commonwealth – in effect all were British subjects and all were entitled to enter the United Kingdom. The 1948 Nationality Act created citizenship of the United Kingdom and Colonies, which could be acquired by British subjects under certain conditions, and while at first entry into the United Kingdom itself remained automatic for all British subjects, this move opened the way to future restrictions: Commonwealth citizens lost their right of entry in 1962, and United Kingdom and Colonies citizens lost theirs in 1968. One oddity about British nationality and immigration laws was that, during this period, they parted company so that British citizenship did not bring right of entry for certain groups.

They were brought back into line under the 1981 Nationality Act, but in doing so it brought into being some of the most complex citizenship rules anywhere in the world. The 1981 Act formally created multiple levels of belonging to Britain.

i) British citizenship.
ii) British Dependent Territories Citizenship (BDTC).
iii) British Overseas Citizenship (BOC).
iv) British National (Overseas).
v) British Subject.
vi) British Protected Person.
vii) Commonwealth Citizen.
viii) Citizens of Éire.

Only category (i) had automatic right of entry, and the other classifications are more or less hierarchical in their degree of access. Under European law, EU nationals now lie in second place in terms of the right to access, with superior rights to two classifications of British citizens.

As we have seen, the object of the 1981 Act was to bring British citizenship law into line with the immigrations acts passed between 1962

and 1971, which had created a situation where the United Kingdom was refusing entry to its own citizens. The 1981 Act solved the problem by taking full citizenship away from those groups, who 'happened' to be predominantly black. Anne Owers comments:

> . . . nationality law was to do with cutting down the possibility of immigration, especially black immigration. This priority meant that much of the Nationality Act merely codified and petrified British immigration law. Its provisions were dominated by a fear of who might be able to come here.
>
> (Owers, 1984, p. 6)

But rather than simply strip UK citizenship from the former UK and Commonwealth citizens who had been deprived of entry rights under the immigration laws, the 1981 Act gave them a form of British citizenship, but a degraded one – the classifications of BDTC and BOC were created, a British citizenship which gave no right of entry to Britain. Vaughan Bevan comments:

> While BDTC and BOC perpetuate, in formal terms, the UK's Commonwealth responsibilities, they are virtually meaningless in municipal law, since they carry no right of entry into the UK. . . . They are cosmetic concepts designed to mollify local and internal opinion.
>
> (Bevan, 1986, p. 129)

Kathleen Paul summarizes the British experience: 'In this process, formal definitions of citizenship increasingly, have had less influence than racialized images of national identity' (Paul, 1997, p. 189).

'Earned' citizenship and the emergence of security

Anybody who has studied and written about citizenship and citizenship practices will be aware that this is an area of constant change, and developments are even now taking place that require new study and new commentary. In the United Kingdom three major changes need to be noted: the introduction of a points system when it comes to immigration; the introduction of the citizenship test; and the idea

of 'earned citizenship'. A context for these changes is the growth in the importance of security in policing the citizen/migrant boundaries. K. M. Fierke points to the securitization of migration and the link with the Europeanization of migration policy (Fierke, 2000, p. 112). The primary source for securitization was over-access to welfare and a concern over 'venue shopping' by migrants and refugees. 'Migrants are represented as a danger to the resources of the welfare state and the socio-cultural stability of Europe' (Fierke, 2000, p. 112). In addition, the September 11, 2001 attack has led to increased levels of securitization, in which 'security has been elevated over freedom and liberty' (Fierke, 2000, p. 113). Fierke comments, 'Internal and external security begin to merge . . .' (Fierke, 2000, p. 114), and, '. . . the possibility of a field within the boundary between citizen and migrant is easily blurred, such that, far from a clear distinction between secure citizens and insecure migrants, or insecure citizens and threatening migrants, a generalized environment of fear emerges' (Fierke, 2000, p. 115).

Migrants to the UK now face an increasingly tight security net. Three quarters of the world's population need to apply for a visa in order to visit the UK, and, according to the UK Border Agency website: 'Widening the visa net is part of the Government's action to tighten border security. There is now a triple ring of security protecting the United Kingdom: fingerprint visas that lock people to one identity, a high-tech electronic borders system which checks people against watchlists, and identity cards for foreign nationals' (http://www.bia.homeoffice.gov.uk/sitecontent/newsarticles/newcountriesfacetoughvisarules, accessed February 27, 2009).

The points-based system was introduced in 2008 to cover migrants from outside the European Economic Area (EEA). This is a significant shift in consciousness, and is a response to the fact that, while during most of the 20th century UK emigration outstripped immigration, in the last decade this has changed such that the numbers entering the UK outweigh the numbers leaving. The United Kingdom is now a country of immigration, and so needs a system similar to traditional countries of immigration like Australia and the United States. The UK points-based system draws heavily on the Australian model. Migrants from outside the EEA will need to pass a points-based assessment before they can legally enter or remain in the United Kingdom. There are five different tiers, and the number of points migrants need will depend on the tier they are applying under. The points are awarded on the basis of ability, experience, age, and the level of need in the sector where the migrant will be working. The tiers are

1. highly skilled workers, for example scientists and entrepreneurs (note that the examples here are those given by the UK Border Agency);
2. skilled workers with a job offer, for example teachers and nurses;
3. low-skilled workers filling specific temporary labour shortages, for example construction workers for a particular project;
4. students;
5. youth mobility and temporary workers, for example musicians coming to play in a concert.

All migrants, except those in Tier 1, will require a sponsor, and organizations who wish to act as sponsors will require a licence. For small organizations, the fee for a licence is £400, while for larger groups it is £1000. In the case of visiting artists, such as musicians, the sponsor must be willing to take full responsibility for them, and vouch for all their activities while within UK territory. The points system gives the UK government much stronger powers to control immigration, and by suspending Tier 3 they have already banned the legal movement of unskilled economic migrants from outside the EEA. Similarly, by manipulating the criteria in the other tiers, the government can decide how many migrants in these tiers will be admitted. However, the fact that migrants from within the EEA are not covered means that the government still has no control over the level of immigration into the UK, and that its claims to be exercising strict control over the UK borders are largely symbolic rather than real.

The citizenship test, or officially the 'Life in the UK' test, was introduced in 2004, along with a citizenship ceremony. All foreign nationals aged 18 or over applying to become British citizens or for indefinite leave to remain have to take the test to show that they have achieved a level of knowledge of the life and language of the United Kingdom judged to be appropriate for citizenship. The citizenship test is taken by those who already have reasonable English language skills (Welsh and Gaelic are acceptable in Wales and Scotland); others must satisfy the requirements by taking a combined course of language and citizenship classes. If they pass the test, the applicants must attend a citizenship ceremony at which they swear an oath of allegiance: only then will they receive their certificate of naturalization. They must attend the ceremony within 90 days of receiving their invitation to do so. At the ceremony they must make both an oath of allegiance – swearing loyalty to the Monarch – and a pledge to respect and uphold the laws and values of the United Kingdom. At the end of the ceremony the national

anthem is played and all are expected to stand to show their respect for the United Kingdom and the Monarch.

The concept of 'earned citizenship' informs proposals for further reform contained in the government paper *The Path to Citizenship: Next Steps in Reforming the Immigration System*, published in February 2008. The idea behind the new proposals is that before a foreign national can become a British citizen or permanent resident, they must be able to show that they have 'earned the right to stay'. This replaces the previous practice which allowed people to apply for citizenship on the basis of continuous residence in the UK, without having to demonstrate that they could speak English (or Welsh or Gaelic) or that they had any involvement in British life. The language skills are, as we've seen, an element of the citizenship test, but the new proposals would go further, requiring applicants to show an ongoing contribution to UK life, including contributing to a fund to help communities in the UK cope with the impact of immigration. There will be three stages under the new proposals: (1) temporary residence for a fixed period; (2) probationary citizenship; (3) British citizenship/permanent residence. The probationary period is the key for the idea of 'earned' citizenship. The paper identifies four ways in which a migrant can progress through the stages: improved command of the English language; working hard and paying taxes; obeying the law; and demonstrating active citizenship (Home Office, 2008, p. 25). For example, applicants who do voluntary work may have their probationary period shortened, while those who commit minor criminal offences can have it lengthened. Applicants who receive prison sentences will lose their entitlement to citizenship. *The Path to Citizenship* also claims that a key objective is that of 'putting British values at the heart of the immigration system' (Home Office, 2008, p. 17). I suggested above that, of the five spaces the would-be migrant has to negotiate, the fifth space, that of national identity, can have an important impact on how the others are shaped by the legal authorities, and we can see from the recent developments in UK legislation that this movement – the central importance of 'Britishness' when it comes to citizenship – is growing stronger.

Chapter summaries

The essays in this book address in different ways the dimensions of the five spaces that constitute citizenship. The question of legal access is addressed in two of the essays: in Tiziana Torresi's essay 'On Membership and Free Movement' and in my own, 'The American Fence:

Liberal Political Theory and the Immorality of Membership'. In her essay, Tiziana Torresi examines the question of who should be allowed entry. She allows that communities have the right to shape their membership, but argues that this must be constrained by the individual right of freedom of movement, which is both intrinsically and instrumentally important to individual lives. These two rights need to be reconciled, and this can be achieved through the establishment of a global migration management system that will take both into account. We must, therefore, abandon the state-centric view that has dominated the debates about migration. In her account, if all had the right of entry to become a full member, then the right of communities to shape their membership is abandoned altogether. However, people do not need full membership to enjoy freedom of movement – there are possible cases where the interest in moving freely can be protected by institutional settings other than full membership. People whose interests span across borders do not necessarily need or desire to change their membership permanently; what they need is the freedom to pursue their interests across borders. People may have interests in being able to live across borders – these interests are not necessarily met through the transition from migrant to citizen, but rather through the ability to carry on a range of activities across borders. A supranational management system could protect those interests through systems of temporary migration. Such a system reconciles the right of migrants to free movement and the right of communities to shape their membership by reducing the numbers of permanent transfers of membership. A global management system would reach a balance given the particular contextual situation of each country and the quantity and quality of migration flows. Therefore the key to a more efficacious exercise of the right to shape membership lies in the partial surrender of state sovereignty.

In my contribution I draw attention to the phenomenon of fence building around liberal democratic states in an attempt to prevent undocumented access to their territory. While the fence between the United States and Mexico is the most obvious example, Spain has built one around its enclave on Morocco's Mediterranean coast at Ceuta, and a feature of European immigration practices has been the building of border fences *within* the national territory, with the proliferation of prison camps for asylum seekers and suspected illegal immigrants. Regard for human rights in the process is minimal. The report by psychiatrists from Oxford University and Australia said that globally 17 million refugees were 'warehoused', confined in centres. There have been a total of eight suicides by Britain's detainees to date since January 2003. I argue

that this reflects upon liberal political theory and its approaches to the question of membership. Contemporary liberal theory has focused on the question of distributive justice, of how liberal goods and resources are to be distributed fairly among members, but can we decide that question before we have decided how membership is to be fixed? Concerns of justice are taken to end at the border, but surely this suspension of the principles of justice at the membership boundary can only be justified if that boundary itself is constituted in a way that complies with core liberal principles – we cannot suspend the application of our principles *arbitrarily*. Not only that, but the way the boundary is controlled must also comply with liberal principles. If we hold that liberal political justice simply stops at the membership boundary, then we are allowing a liberal interior with an illiberal boundary. The evidence presented by the American and Spanish fences, and by the detention of asylum seekers in what amount to prison camps in countries like Great Britain and Australia, strongly suggests that this is the case. The question I pose in my essay is whether this apparent contradiction between the liberal public space of membership and its illiberal border zone can be coherently sustained.

In Chapter 4, 'Resident Aliens, Non-resident Citizens and Voting Rights', David Owen examines the rights of political membership due to migrants. He considers two current practices, alien suffrage and emigrant suffrage, which have arisen in response to the transnational movement of people, and argues that both practices are defensible as elements of an account of transnational political equality. Using an argument concerning subjection to government, Owen concludes that all non-transient competent adult residents of a polity should enjoy full voting rights; that all mentally competent adult (first-generation) emigrant citizens of a polity should enjoy voting rights in national, but not local, elections; and that all mentally competent adult citizens of a polity, but not other residents, should enjoy voting rights in relation to constitutional issues around the character of citizenship. These arrangements, he argues, are required to support political equality in the context of the range of different forms of political belonging in a world of increased global movement.

Three essays in this collection examine the requirements for citizenship, and reach different conclusions, especially around the idea of language requirements. In Chapter 5, 'Becoming Citizens: Naturalization in the Liberal State', Stuart Hampshire asks what requirements citizens can justifiably demand of new citizens. He limits his discussion to the transition from permanent resident to citizen, and contrasts

the liberal minimalism of Joseph Carens with the liberal nationalism of David Miller. Four kinds of requirements are common in practice: (1) length of residence; (2) language proficiency; (3) some view on the acceptability of dual nationality; and (4) civic or cultural knowledge tests. The first two are, he says, relatively uncontroversial, while the third is more contested (Honohan allows dual citizenship). The fourth element, of civic or cultural testing, is becoming more widespread and raises the most serious moral questions. According to Caren's minimal liberalism the only legitimate requirement is length of residence, and that is to be kept as short as possible. Carens also allows for dual nationality. Two powerful arguments lie behind Carens's position. First, an extended period of residency establishes a person's social membership, which gives them a claim to political membership. Civil society is prior to political society, and if someone has established themselves as a full member of the civil society, there is no good reason to exclude them from political society. Second, those subject to the law should be able to contribute to its making, and so everybody with permanent residence in the state should be entitled to full voting rights.

According to Miller's nationalist position, a shared sense of national identity is essential to the functioning of a modern state, and so nationhood is prioritized over citizenship. What is required is the acquisition of the national language, knowledge of the nation's history, and some degree of acculturation. Hampshire identifies a number of reasons to reject the nationalist argument, questioning whether there is such a thing as a national culture and even if there is whether it could be tested for, but argues that we must move beyond liberal minimalism. A liberal vision of social justice and tolerance depends to an important extent on the dispositions of citizens, and so stable and successful liberal societies rely on a body of citizens that endorse the public values of a pluralistic and tolerant society. These are ideals rather than enforceable duties, but there is a need for political education. The implications of naturalization for Hampshire are that permanent residents have a powerful moral claim for full inclusion, but because citizenship is a status it is reasonable to expect applicants to display some understanding of what is required by that status. It is therefore legitimate for liberal states to institutionalize the formal rights and responsibilities of citizenship and perhaps its ideals into the naturalization process. For Hampshire language proficiency is justified, but because of civic demands, and not cultural ones – it is difficult to see how a person can participate in politics at the national level without language proficiency. And naturalization tests are acceptable if confined to civic knowledge. They may

be a poor guide to civic mindedness, but 'by incorporating the political knowledge and values that motivate and enable citizens to cooperate as equals, naturalization tests can at the very least represent an ideal of liberal citizenship'.

In Chapter 6, 'Republican Requirements for Access to Citizenship', Iseult Honohan outlines a republican vision of citizenship, a vision that demands the capacity to communicate, awareness of the interdependence among members, a sense of responsibility to the wider society, and an inclination to engage in public debate. The state can seek to promote these through civic education. However, this should not impose demanding requirements upon those who wish to become citizens. Honohan argues for relatively generous conditions for naturalization. 'Long-term residents become citizens on a virtually automatic basis, just as natives do . . . in virtue of living, working, paying taxes and sending children to school, for example.' This is because the republican conception of citizenship is 'less exclusive and less demanding of homogeneity than ethnicity, shared value or liberal nationality. Because the citizenship laws that flow from it do not depend on a shared past or require cultural adjustment as a condition of membership, they are intrinsically more open to diversity.' We have to distinguish between characteristics, capacities and attitudes that are desirable in citizens and that are legitimate for states to encourage, and fixed requirements that people must have in order to qualify: tests are only appropriate in the latter case. The attitudes desirable in citizens such as awareness of interdependence, civic self-restraint and inclination to deliberative judgment are parts of legitimate civic education but cannot be required as legal obligations. For new citizens joining a society we might want to say that more is required, such as providing them with knowledge about the structures of the society, but this is far from saying they need to learn about national history and culture. On language, '. . . the importance of a capacity to communicate among citizens suggests that competence in a widely spoken public language should be encouraged. This justifies state provision or, at the very least, subsidy of language classes, and even a requirement that applicants should attend such classes. But it does not warrant the requirement that applicants should have to pass a test at any specific standard.' On the question of identity, any shared identity that is desirable may be best produced by interaction rather than something that can be taught or tested for. It may be, argues Honohan, that naturalization is best seen as a condition for a sense of identity, rather than depending on it. And so republican requirements for naturalization are limited.

Andrew Shorten focuses on the language question in Chapter 7, 'Linguistic Competence and Citizenship Acquisition'. He identifies three ways in which unimpeded linguistic diversity could threaten the value of citizenship. First, there is the existential threat, that if substantial numbers of newly arrived immigrants refrain from adopting the national language this could have long-term implications for national distinctiveness. Second, there is the democratic threat, that linguistic diversity could compromise the functioning of democratic procedures and institutions as well as preventing immigrants from effectively participating in those procedures and institutions. Third, there is the egalitarian threat, that immigrants without linguistic competence will be disadvantaged in the pursuit of their life plans and projects, and, as they cannot fully participate in democratic procedures and institutions, will have unequal citizenship. Shorten rejects the first two arguments. The first does seem plausible in the case where a language is vulnerable to disappearing, but that is not the case in any of the liberal democratic states where language testing is being proposed or imposed. The second is undermined by successful democracies that are multilingual, and while most democracies have drawbacks and deficiencies we are not in a position to know if they would be better if they were monolingual. The third argument, that citizens without language proficiency are disadvantaged when it comes to democratic participation, is more plausible, argues Shorten. Translation services can help in some areas, but not when it comes to political participation, as they are extremely expensive, potentially intrusive, may undermine spontaneity, and have distorting effects. The best solution is the right to majority language learning, which would cover the costs of learning the language, including compensation for the time invested. However, there is not a *duty* to learn the majority language. 'What the principle requires is that everyone has an equal opportunity for meaningful participation in democratic life, and whether or not they choose to avail themselves of this is a different matter.'

In their essays, Rosemary Sales (Chapter 8) and Steven Fenton and Robin Mann (Chapter 9) examine the problems of pursuing a national-identity agenda in the name of inclusive citizenship. Sales examines the development of progressive nationalism in British politics in 'What Is "Britishness", and Is It Important?'. It has arisen because of the search for a British identity that can bind people together in the context of political and economic changes, including globalization, which are seen as creating social fragmentation and dislocation. Immigration and ethnic diversity are primarily responsible for undermining social solidarity,

as the most visible signs of globalization. Progressive nationalists reject multiculturalism as a response to this development, and rather argue that we can have a coherent and inclusive British national identity. Sales identities some key problems with this agenda. First, the promotion of values in the absence of other strategies cannot be successful in promoting social cohesion, especially in the context of policies that divide people further. Values on their own lack the motivational power to bind a community together, especially when a government pursues the marketization of society, which divides people further. Second, there are inherent contradictions in the notion of 'British values'. These are usually identified as democratic values, but the source of these values is not found in Britain's own history – none of the heritage museums celebrate democracy. Rather, we get democracy juxtaposed with archaic and anti-democratic or divisive institutions such as the monarchy and the Church of England. Third, the dominance of England makes Britishness potentially divisive. Northern Ireland, where the Protestant population strongly identifies itself as British, is usually left out of discussions here, and the dominance of Unionism has made it difficult for that group to find a progressive British identity. Fourth, the promotion of Britishness separates us 'British' from outsiders, and so is necessarily exclusionary. Social inclusion through the idea of Britishness can only be achieved through the exclusion of the alien 'Other'. This is reflected in the complexity of British nationality law, which has become increasingly exclusionary. And so behind progressive nationalism there is a slippage between thinking of citizenship as a formal status and more exclusive notions of national belonging. Sales comments: 'the promotion of Britishness has been ambivalent and contradictory. While there have been attempts to promote a progressive and inclusive agenda, in failing to address the inequalities and undemocratic aspects of British life, it inevitably ties Britishness to a particularist version of national identity, which privileges certain sections of the population. It by definition excludes those deemed not British by citizenship or culture and can easily slip into legitimating racism.' She concludes that the values of democracy and tolerance are not uniquely British, but should be understood as universal human values: '. . . to evoke Britishness in calling for support for these values is reminiscent of colonial attitudes in which the "civilized" were distinguished from the uncivilized "Other" '.

Steven Fenton and Robin Mann discuss the role of ethnicity in British national identity in their essay 'Introducing the Majority to Ethnicity: Do They Like What They See?'. They ask what the 'ethnic majority' think about ethnicity and national identity, examining Britain

in particular. What they find is resentment towards incursions into 'their' sense of national identity, along with an indifference towards the nation, country and ethnic diversity. One option is a plural sense of Britishness representing diverse citizenry, with an ethnicized Englishness as the presence of the ethnic majority alongside other hybrid identities such as black-British, Asian-British, etc. But this is a call for a new sense of nationhood, which majoritarians may be ill disposed to entertain. The majority, Fenton and Mann found, have a tendency to view themselves as not having an ethnicity at all. We also have to consider how 'being white' is implicit in the majority construction of nationhood: 'Englishness' is often strongly coded with whiteness. Fenton and Mann find that Englishness continues to be defined in opposition to ethnic diversity and therefore is strongly linked with an unstated whiteness. They conclude: '… there is a sense that what newcomers should be integrating into is not simply a detached shared community but something which is "ours." This raises considerable doubt over the possible realization of normative goals towards the redefinition of the nation in more plural forms.'

2
On Membership and Free Movement*

Tiziana Torresi

The field of ethics of migration is broadly divided into two areas: the first pertains to admission policies, the second to models of integration and naturalization. The two questions at the centre of these debates – who should get in and what should their rights and obligations be if they are admitted – are often discussed in isolation from one another. Moreover, they are also often considered as normatively independent from each other, and this is not necessarily a mistake.[1]

Here I want, however, to look at these questions together, and to suggest that the answers we give to the first question can influence the way we answer the second, and vice versa. In particular, in this chapter I want to challenge a widespread position in the ethics of migration. This position has the following structure:

a) (1) The value of justice is applicable within political communities, within which citizens are bound by a special relationship they do not share with the rest of humanity.
   (2) By virtue of their features, political communities have a right to shape their membership.

b) There are duties to outsiders, but these are normally duties of humanity rather than duties of justice, and are anyway different from the duties owed to compatriots.
c) If outsiders are admitted to the political community they must be granted access to full membership.

This stance is, statistically, fairly dominant in the debate on migration, and, in particular, proposition C of the position has pretty much enjoyed an academic and policy consensus until recently. Migration

is, from this perspective, an anomaly in a world of bounded, self-determining political communities, and the migrants who are admitted must be quickly integrated, turned into citizens and so 'normalized'.

In this chapter, I argue instead that a fair and efficacious system of regulation of the movement of people requires supranational institutions capable of conciliating the different claims of communities and individuals, and of accommodating changing patterns of migration. Such a framework would employ a flexible set of policy instruments to manage migration flows, actively involving all actors in the migration phenomenon – receiving and sending countries as well as migrants.

To this end, I argue against both the second part of proposition A and proposition C as presented above; I claim that communities' right to shape their membership is constrained by an individual right to free movement, thereby challenging part 2 of proposition A; and that the conciliation of these two rights is best achieved by renouncing the idea that admission must necessarily result in full membership, therefore questioning proposition C. A more nuanced management of the outcome of migration – as allowed by a global migration management system – can help in conciliating the conflicting claims of migrants and communities. In this sense, our models of integration shape also the answer we give to the question of admission.

In the first section, I defend and define a basic right to free movement. In the second section, I argue that a basic right to free movement extends to crossing international borders. The final section sketches a framework for a global migration management system.

On free movement

In his treatment of the responsibility of nation states beyond their borders, David Miller proposes that the responsibility of states towards non-members is limited to the respect of basic rights, which identify a global minimum that people everywhere are entitled to (Miller, 2008).[2] Miller denies, however, that mobility belongs to the list of needs of outsiders that impose duties on communities. Any claim to admission follows from *other* needs – security and subsistence for example – in those cases when such needs could only be fulfilled through admission. I want to challenge this point by arguing that mobility is in itself a basic need, and that this need is sufficiently important to constrain communities' right to define their membership.

The freedom to move is an important human interest, and I believe this interest to be of sufficient importance to ground a general duty of

non-interference with the liberty of individuals to move. At its most basic, this is hardly a controversial statement, and the core of the debate on the recognition of a right to free movement lies, as will become clear in the course of this chapter, in defining the scope of the right. The freedom to move is important for individual lives for two sets of reasons. First of all, free movement is intrinsically important, indeed central, to the human experience. Second, mobility is instrumentally important for a whole series of other ends. I will discuss free movement's intrinsic value first.

A life without the freedom to move would be a severely impoverished one; in fact, it would hardly be a human life at all. Martha Nussbaum makes this point by including mobility amongst the basic features that make human beings human. She says: 'Human beings are . . . creatures whose form of life is in part constituted by the ability to move from place to place. . . . An anthropomorphic being who, without disability, chose never to move from birth to death would be hard to view as human' (Nussbaum, 1992, p. 218). The opportunity to move one's body freely, without constraints, is one of the most basic, and pleasurable, of human activities. So much so, that the restriction of movement is a favoured, and effective, form of punishment and even torture. Moving our bodies in space is also one of the most important ways through which we learn about ourselves and the world. So important is this, that severe congenital inabilities to move could result in developmental and learning difficulties, and in alterations in our sensorial perception of space (Schonpflug and Schonpflug, 2001).

Freedom of movement also has an instrumental value.[3] Beyond the most immediate range of movements, the possibility to travel freely represents for human beings the occasion to experience cultures and situations different from their own: a way to satisfy their curiosity and desire to learn about others and, ultimately, about themselves. The idea of travel and migration has fascinated generations. The journey, travelling, exploration have always been central themes in human experience, also charged with symbolic value, of travelling within oneself, of spiritual exploration and development, with religious pilgrimages being a case in point. For some peoples – nomads – movement is central to their entire way of life. Many have considered, moreover, nomadism as the paradigm itself of human life. They see the settlement of the majority of human beings as the beginning of the end of the most authentic form of human life and of a golden era for humanity.[4]

But the freedom to move also has a very strong connection with the idea of freedom more generally, and is, in a sense, a paradigmatic aspect

of what it means to be free. 'Eleutheria' is one of the Greek words for freedom; it derives from a phrase that means 'to go where one wills' (Dowty, 1987, p. 12). It is significant that one of the words for 'freedom' should derive from the idea of free movement. Isaiah Berlin, in a suggestive metaphor, speaks of 'freedom' as the 'absence of obstructions on roads along which a man can decide to walk' (Berlin, 1969, p. xxxix). Intuitively, we cannot but associate going where one wishes with liberty in one of its elemental forms, a freedom 'as close to the heart of an individual as the choice of what he eats, or wears, or reads' in the words of the US Supreme Court (*Kent v. Dulles*, 357, US 116 cited in Van der Mei, 2002, p. 811).

Freedom of movement is fundamental also in a key liberal sense. The deepest meaning of liberty is, in this reading, the possibility to see, learn, experiment and reinvent oneself and one's identity, the ability to distance oneself from one's own life and circumstances, to revise critically one's ends and evaluate one's life and choices (Macedo, 1991). When we consider the importance of travel and familiarity with other cultures in gaining perspective on one's own culture and society, it is clear how freedom of movement should be considered key to the development of such abilities. This is not to mention the importance of a right to free movement in the ultimate instance of distancing oneself from one's community: the right of exit from a society which one finds uncongenial.

The possibility to move freely is also an important component of many human activities, including some of the most basic ones. We need to be able to move freely to exploit resources, to produce and access goods and information, to fulfil our needs of sociability, to participate in political and religious activities, and so forth. Moreover, since the advent of globalization, and its effect of increasing interconnectedness between people across borders, mobility has become, arguably, even more central to the pursuing of one's ends. To be sure, it is imaginable that with much organization one could perform most actions without requiring mobility between different locations. I could, for example, get my goods delivered, join a distance education facility, talk to my friends on the phone or write letters and so on.[5] Although this is all possible, it would be an extremely complex, costly and, ultimately, restrictive procedure and some of the meaning of human activities as we now know them would be changed dramatically. Even if we were able to perform most of the actions we perform today they wouldn't be quite the *same* actions, and, more importantly, they probably wouldn't be as effective and satisfying in achieving whatever ends they mean to achieve.

Thus, if freedom of movement is not a *necessary* component of most activities, it is nevertheless an important component, important enough to justify the claim that a reasonable – that is, not too onerous, practicable, satisfying, etc. – understanding of what it means to be free to perform certain actions must imply the liberty to move to, and be in, certain locations. In concrete terms, part of what it means to be free to receive an education is the freedom to go to campus for my lectures, to be in the library, to meet other students; part of the meaning of engaging in political activities entails that I will be able to congregate with other people, distribute pamphlets and so forth. Moreover, freedom of movement will be a necessary component of some activities; so, for example, the action 'watching the sunset at the beach' does necessarily involve the getting to the beach, or 'receiving the Pope's blessing' does actually involve me going to St. Peter's Cathedral.[6] Political, economic, social and religious activities will require a degree of mobility to be pursued with reasonable ease and success.

The restriction of movement would, therefore, constitute a serious diminution of one's freedom in many other spheres of life. Thus, because the ability to move freely is central to many other liberties, the right to free movement is considered to be indispensable for the protection of other rights and therefore an indispensable element in any set of rights if it is to be effective (Nett, 1970; Shue, 1980). In the words of the Supreme Court of the United States:

> Freedom of movement is akin to the right of assembly and to the right of association. These rights may not be abridged. … Like the right of assembly and the right of association, it often makes all other rights meaningful – knowing, studying, arguing, exploring, conversing, observing and even thinking. Once the right to travel is curtailed, all other rights suffer, just as when curfew or home detention is placed on a person.
>
> (*Aptheker v. Secretary of State*, 378 U.S. 500, 520 [1964] [Douglas, J., concurring])

Freedom of movement is, therefore, central to the life of a liberal society, and, on account of both its intrinsic and its instrumental value, free movement is at the heart of a person's freedom and essential to leading a life worthy of being called humanly decent.

It is perhaps not surprising, then, that freedom of movement was recognized as a fundamental liberty by the National Assembly writing the new constitution for France after the revolution. After drafting the first

three provisions, which were very general and dealt with the matter of citizens' equality before the law, at the point of enshrining the first concrete 'natural and civil right' the assembly wrote of the liberty 'to go, to remain, [and] to depart' making free movement part of the constitution before such foundational liberties as freedom of speech and freedom of assembly (Torpey, 1997, p. 845).

It is hard, I think, to deny that all individuals have a basic right to free movement. This recognition is a problem for the theoretical position I am discussing here, which wishes to recognize basic rights for all individuals and at the same time uphold a community's right to control its membership. Is there a way to reconcile these claims?

I want to address one attempt at such reconciliation: David Miller's defence of migration restrictions. Miller accepts the claim that there is a basic right to free movement but holds that this recognition poses no problems for the community's right to control its membership. This is not, however, because the community's claim to self-determination trumps the right to free movement. But rather because the right to free movement is a basic but *narrow* right, which does not extend to international movement. The argument is, therefore, an attempt to limit the scope of the right to free movement *internally*, as it were, by claiming that its scope is determined by the right's very definition. If successful this argument would resolve the tension in the theoretical positions I have been addressing.

On the scope of the right to free movement

Miller begins his argument by saying that the interest in moving freely grounds a right to freedom of movement (Miller, 2008, p. 204). Moving freely, Miller argues, is a fundamental human interest intrinsically, and is instrumentally important in achieving various other ends, the lack of which would make one's life severely deprived – for example, finding a suitable spouse or a job, practising one's religion and so forth. He therefore accepts that there is a right to free movement, and that it is a basic right. What Miller questions, however, is the physical extent of the right, that is, how much of the earth's surface must be available for me to move on to be able to say that I enjoy a right to free movement. There is always *some* value in individuals having more choices, he continues, but we normally distinguish between basic freedoms, freedoms which, because of their fundamental importance, warrant protection as a matter of right, and bare freedoms which do not. Freedom of movement, he argues, qualifies as a *right* only inasmuch as it is necessary to

guarantee people the *adequate* range of the opportunities the right to freedom of movement is intended to protect (Miller, 2008, pp. 206–7). Anything beyond that would be desirable only in the limited sense given to bare freedoms. That this is true, Miller claims, is shown also by the way freedom of movement is actually regulated within liberal societies. These societies do protect their citizens' right to move freely, but this right is far from absolute. I cannot, generally, trespass on other people's property, ignore traffic regulations, enter public places outside of their opening hours and so on. What liberal societies guarantee is a degree of freedom of movement *sufficient* to protect the interests which the right to free movement is meant to protect, but no more than that.

The question Miller is concentrating on is specifically whether the interest in free movement can ground a right to migrate to another country. What's interesting, however, is that he tries to do this not by giving national borders a particular significance, or by balancing the right to free movement against other rights, but rather by limiting the right to free movement in its physical extension from within the right itself.[7] He defines the physical boundaries of a basic right to free movement on the basis of the interest which grounds the right in the first place, quite independently from the significance, or otherwise, of national borders as they exist, or might exist. This 'internal' limitation, it is worth repeating, hinges on the idea that the physical extension of a *basic* right to free movement is that area which provides an *adequate* range of opportunities to achieve the ends the right to free movement is meant to protect. In this sense, therefore, any geographical area which does, within its borders, satisfy this condition is a candidate for the rightful limitation of free movement. There is no reason why, on this line of argument, I should have a right to move from California to Massachusetts, anymore than I have a right to move from Mexico to the United States, this assuming, of course, that both California and Mexico offer me an 'adequate' range of opportunities. In fact, on this understanding, one might be hard pressed to justify even the right to move out of New York, or other cities of comparable, or even smaller, size.[8]

It should be clear, therefore, that the right to free movement supported by Miller is a fairly narrow right, far narrower indeed than that which liberal democracies already guarantee their citizens. Because, if it is true that liberal societies limit free movement in the way Miller indicates, it is also true that such limitations are usually *justified* to the citizens – for example, circulation down Cornmarket is suspended due to works in progress – indicating a presumption in favour of free

movement in the absence of good reasons to the contrary. But, more significantly, limitations of internal mobility between regions of the kind Miller's argument allows for would need very good justification to be enforced. Imagine, for example, if the Government of the United States was to allow California to keep people from other states out, or, even harder to imagine, if it was to allow other states and cities to keep residents of New York City out.

It seems therefore that liberal democracies are delimiting the right to free movement by considering other interests and rights that may have a balancing claim against it rather than preventively, from within, by defining a range of movement sufficient to guarantee the ends it is meant to protect. This does not show, of course, that Miller is wrong in his analysis. It might be that liberal societies are just very generous in their interpretation of their citizens' right to free movement, or that their decisions on these matters are informed by other considerations quite external to the interest in free movement (this is almost certainly the case with economic considerations about the desirability of free flows of labour, for example). Nevertheless, I think that the different reactions likely to be caused by the enforcement of the law on trespass and our hypothetical closing of the Californian borders has to do with our perception of what freedom of movement is *for*. We are not so troubled by the law on trespass or by traffic regulations, I think, not just because we see good reasons for them, but also because we do not think that that *kind* of restriction of free movement is likely to impact on the ends freedom of movement allows us to achieve in the way states closing their borders do. I do not mean to say this is always true, but merely that this is generally true.[9] These kinds of restrictions are therefore in a sense easily justified by policy concerns, such as traffic coordination, or by the need to protect other rights, such as the right to property.[10]

Miller points out that, contingently, it may be true sometimes that certain basic interests can be satisfied, for certain individuals, only by migrating to another country (Miller, 2008, p. 207 n. 7, p. 213). In general though, if we assumed a world composed only of decent states, that is, states able and willing to provide for their citizens' basic needs, then each of these states would guarantee an adequate range of opportunities internally. I am not convinced, however, that it is so easy to define geographically just what area can do this for every individual. Also, if we believe that the ends a restriction of free movement is likely to prevent us from achieving are fundamental enough to ground a basic right *then* we must be concerned that *every* individual is guaranteed enough freedom of movement to achieve her ends. It will not do to say that

there are plenty of opportunities there and therefore that number is adequate. The point is, I think, that the ends we are meant to protect with free movement are specific ends, a suitable marriage partner is a suitable marriage partner in a specific sense, and it may well be that even a very large area does not provide *me* with one – for example, if I belong to a religion with very few members in a given area and I wish to marry within my faith, or if I am already in love with somebody who lives outside the designated area. And the fact that this is not possible amounts to more than just the frustration of my life plans, as is shown by the fact that it is the frustration of this very kind of interest which is considered serious enough to ground a right in the first place. Let me turn to another right to clarify what I mean by this.

It is generally accepted that individuals possess a right to freedom of religion. That is because we believe that if people are not free to practise their religion they would lead an impoverished life. Would we then say that if a given legal regime allows for the practise of x number of religions, even a very large x, this constitutes an adequate range of opportunities and that therefore somebody wishing to practise a religion not currently considered by such a regime should not be free to do so? Would we be happy to say that the person whose religion is not present in this hypothetical regime's list of legal religions is certainly unfortunate, but that he has no claim of right? I think not. I don't think this interpretation does justice to what we mean by saying that one should be free to practise one's religion. Ultimately, a right to freedom of religion must mean that I am the ultimate authority in deciding what religion I should practise (as long as I don't violate other people's rights by so doing). Similarly, if we believe that individuals have a basic right to enough freedom of movement to be able to achieve those ends free movement is meant to enable them to achieve, then we cannot arbitrarily define a range of opportunities which might, or might not, be adequate for *them* specifically, and say they are just unlucky if in their case this is not the 'right' range. This is not to say, of course, that free movement should be unlimited, but rather that it may not be desirable to limit it preventively, from within, as Miller tries to do.

The main reason why such an internal limitation of the right might not be desirable is to do with what has been called the non-specific value of freedom (Carter, 1999). In a similar argument to the one I am advancing here, Valeria Ottonelli has underlined how freedom is of crucial importance also because human beings are fallible and ignorant in relation to their ends, and that they therefore need freedom to be able to revise their life plans and reconsider their choices. If it were possible

to define finally and comprehensively a list of ends for human beings then they would not need freedom. While this terminology has been applied to freedom generally, it is also applicable to specific freedoms. In the case of free movement, its value will be *instrumental* and *non-specific* (Ottonelli, 2003). To say of free movement that it possesses an instrumental and non-specific value means to point out that although free movement derives its value from being necessary for the achievement of certain specific ends (although it does of course possess also an intrinsic value as I have argued) it will never be possible to define once and for all what these ends are, how important these ends will be, and, crucially, the degree and direction of movement in space necessary for their achievement.

This interpretation of freedom of movement seems to also square with the way the right to free movement is exercised and protected within liberal democracies. These tend to guarantee the maximum degree of freedom of movement possible, while respecting other rights as well as some policies of importance, *and* to guarantee it uniformly on the national territory. The only reason why this guarantee stops at the national borders is that that is the point where the national jurisdiction ends as well. It seems therefore that the work is being done here by something external to freedom of movement itself, namely by the significance of national borders. But this is a different kind of argument.

An attempt at conciliation: A global migration Management System

My argument has attempted to show that it is not possible to hold both part two of proposition A *and* proposition B; the propositions claim that communities have a right to shape their membership, and that they are obliged to respect basic rights of non-members. But if there is a basic right to free movement which is not limited to internal mobility, we have an obvious tension between the two propositions. Thus, the individual right to free movement must constrain the right of communities to shape their membership.

In this section, I shall argue that a partial solution to the conflict between these two rights is to be found in the rejection of proposition C made possible by the institution of a flexible set of policies within a global migration management system.[11] To begin this argument, I should emphasize that I have not suggested that the right of communities to self-determination cannot extend to the control of

migration *because* there is a right to free movement, but rather, that the two rights have a balancing claim against each other.

On the one hand, we have communities' right to shape their membership. I do not have the space here for a detailed discussion of this right and of precisely what duties it may impose on others.[12] But it must be generally understood, if it is intelligible at all, to be the power to decide, *in most instances*, who becomes a member and who does not.[13] On the other hand, we have an individual right to free movement whose definition and scope I have discussed above. This conflict is intractable if we accept the dictum of proposition C, namely, that everybody admitted must be given access to full membership. For if everybody can come in, and everybody who comes in can become a full member, the right of communities to shape their membership is clearly void. But does the respect of the right to free movement require access to full membership?

This question can only be answered by looking at the interest that founds the right. I have talked above of two ways in which the interest in free movement is important: intrinsically and instrumentally. Intrinsically, clearly we do not need membership to enjoy free movement; all we need is not to be prevented from accessing *some* space.[14] Instrumentally, the picture is less clear. Some of the ends free movement is instrumental in pursuing seem to require permanent residence to be enjoyed, for example forming a family in a new country. And if I were permanently resident in a new society it would indeed be unjust to deny me a reasonable chance to become a citizen; permanent alienage is certainly intolerable.[15] But there are cases when the interest in moving freely could be protected by institutional settings other than full membership.

People whose interests span across borders do not necessarily need, or desire, to also change their citizenship, or residence, permanently. What they need is simply to be free to pursue their ends across borders. To this end, temporary migration programs could be key policies.[16] This is particularly true given the character of contemporary migration. Rates of return to the country of origin – as well as migrants' onward migration to a third country – are significant. We are also witnessing the development of cyclical migration, migrants moving periodically between their country of origin and the host country, often as irregular migrants.[17]

From the perspective of the protection and realization of an individual right to free movement temporary migration programs are unproblematic. Many of the ends migrants pursue could be perfectly well satisfied by these policies; indeed, given certain conditions, they may be

preferred by the migrants themselves. But are there other, separate reasons why temporary migration programs may be undesirable? Michael Walzer (1985) suggests two such reasons. The first is the vulnerability of migrant workers to exploitation and abuse, as has indeed been the case historically. The second is the corrupting influence of the presence of people who are ruled without political representation on democracies, running directly counter to their founding political principles.

Walzer himself suggests that a possible alternative to granting full membership to migrants is the subscription of bilateral agreements between the host country and the migrants' country of origin. These agreements would define a list of guest-worker rights, again to be renegotiated periodically to fit with changing circumstances. In this way, the migrants would enjoy protection in the host country.[18] Moreover, with the institution of bilateral agreements, the citizenship that migrants enjoy in their country of origin would give them representation in the host country. This gives those migrants who are not citizens a defined status within the host countries and prevents their being ruled tyrannically. This would also be true of a migrant protected by an international legal instrument defining rights of migrants, which could be renegotiated according to changing circumstances, and guaranteed by a supranational organization. Moreover, this would be the case *whether or not* her own country of origin was willing or able to enforce the migrant's rights against host countries, thus giving protection and representation also to migrants from relatively powerless, rogue or failed states.

Allowing this kind of migration facilitates the conciliation of the right of migrants to free movement and the right of communities to shape their membership by reducing the number of permanent transfers and therefore the instances of conflict between the two rights. Through the rejection of proposition C – that migration must always result in full membership – the claims of communities and migrants can be more easily reconciled.

Within a global migration management system, the interests of all parties in the migration phenomenon could be recognized and represented, and the ensuing system of regulation of the movement of people would ideally result from the negotiated agreement of all stakeholders. But, paradoxically, because of the flexibility this institutional design allows, the partial surrendering of sovereignty on the part of host countries on their migration policy could result in a more efficacious exercise of their right to shape their membership.

Notes

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1. They are not empirically independent from one another. See Rhus and Martin (2006).
2. Miller also thinks that when basic rights are unfulfilled we have remedial responsibilities towards outsiders, that is, we have an obligation to ensure their needs are met.
3. Migrants generally move in order to access goods, often very basic ones, like liberty and subsistence; it is therefore the instrumental value of freedom of movement that is most relevant in defining the *scope* of the right to free movement. But it is nevertheless wrong to underestimate the importance of the intrinsic value of free movement, for this aspect of the interest speaks to the moral significance of the right, although clearly both the intrinsic and instrumental values serve this latter purpose.
4. This view of life is often celebrated in literature. See for example Chatwin (1996) and Baudelaire (1949).
5. Note however that some of these activities will involve *some* individuals enjoying the freedom of movement necessary to reach me. We could imagine, however, a community where freedom of movement is granted only to certain people, or at specified times, or both.
6. I am discounting here the possibility that the Pope may come to me as far fetched, but note however, that even if this were not the case, the action of getting the Pope's blessings would involve either me moving, or the Pope.
7. Although of course he also believes they do have this significance. See Miller (1995).
8. Of course, this does not mean that there may not be other reasons why a person may have a more extensive entitlement to move. In the case of citizens, for example, there almost certainly are other arguments to justify a more extensive guarantee of free movement within the national boundaries, and these are arguments abundantly available to Miller. However, the issue here is the definition of the entitlement of *persons* irrespective of other contingent claims they may, or may not, be able to press according to their specific circumstances, including their citizenship.
9. I am thinking here of cases where trespass law might infringe on people's fundamental rights, as for example in cases seen in Australia where sacred sites to the Aboriginal people of Australia fell within private property (see Parliament of New South Wales Aboriginal Land Rights and Sacred and Significant Sites – First Report from the Select Committee of the Legislative Assembly upon Aborigines, 1980). Another example is to be found in the effect that regulations of access to public land have on homeless people; on this last point see Jeremy Waldron, *Liberal Rights* (Cambridge: Cambridge University Press, 1993).
10. In fact, given that traffic limitations are often justified by the need to coordinate movement to insure that everybody can move safely and easily, we can see the regulation of movement in this case as functional to the effective

enjoyment of the right to free movement, in roughly the same way that taking turns to speak enables everybody to enjoy their right to freedom of speech.

11. I do not think it is scandalous to admit that rights may conflict. See Waldron 'Rights in Conflict', in Waldron (1993). For an argument denying the possibility of ever defining rights so as to avoid conflict see Kamm (2001).
12. This would also depend on what justification one gave for such a right.
13. This right cannot be that the community *be* in a certain way – that is, with a specific cultural content for example – for this would require putting too much constraint on individual behaviour, and also that of members. But rather, I believe, it should be understood as a democratic right to have a voice in the shaping of one's community.
14. There is of course a question of whether the right to free movement should be understood to also entail positive duties of enablement rather than simply negative duties of non-interference. I think it probably does in some cases, but I have no space here for such a discussion, which has anyway no direct bearing on the issue at hand.
15. In such cases, clearly, the right of communities and the right to free movement come in direct conflict, and a decision will have to be made on the basis of the particular circumstances.
16. I am not going to define how these programs should be designed. I mean to refer generally to migration programs that are explicitly limited in their duration.
17. See, for example, on seasonal migration: Guendelman and Perez-Itriag (1987); on return migration: Dustmann and Weiss (2007); and on temporary migration: Department of Parliamentary Services, Canberra (2004); Nekby (2006).
18. An example of this is The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, entered into force on July 1, 2003 (available at http://www.unhchr.ch/html/menu3/b/m_mwctoc.htm).

3

The American Fence: Liberal Political Theory and the Immorality of Membership

Phillip Cole

Building the American fence

As I write this essay, the United States Senate is considering a bill focusing on illegal immigration across its border with Mexico. The House of Representatives has already approved the bill, which includes a proposal to spend $2.2 billion on extending a fence along parts of the United States–Mexico border. Fencing already exists along 106 miles of the 2000-mile border, mostly near cities, made up of welded panels of corrugated steel, and a 'high-tech' fence is being constructed along 14 miles of border in San Diego County, a 15-foot-high, steel-mesh barrier. The new proposal would build another 700 miles of fence, based on the San Diego model, along the five segments of the border that experience most illegal crossings. Some would like to see it extended along the entire frontier (Hendricks, 2006). The fence began in the early 1990s, along with increased border controls, air and coastal patrols and surveillance technologies, but its effectiveness has been questioned. Wayne Cornelius and Takeyuki Tsuda comment that these measures 'have had no discernible deterrent effect on illegal entry attempts' (Cornelius and Tsuda, 2004, p. 8). Indeed, the principal effects have been 'to redistribute illegal entry attempts to more remote areas, increase the financial cost and physical risk of illegal entry (people smugglers' fees and migrant fatalities have risen sharply), and induce more unauthorized migrants to extend their stays or settle permanently in the United States because of the increased difficulty of re-entry' (Ibid., p. 8). By early 2004, the number of illegal migrants in the United States had grown rapidly to 9.3 million, 26 per cent of the foreign-born population, 5 per cent of the total workforce, and 10 per cent of low-wage workers (Ibid., p. 8).

The number of fatalities among illegal migrants making the border crossing has also grown to between 400 and 500 a year, nearly 3000 in 9 years, compared with 239 fatalities at the Berlin Wall over 28 years.

Political leaders in Mexico have attacked the proposal, but so have local political leaders in the United States. Calexico is a city in Imperial County close to the border, and it passed a resolution opposing the fence in January 2006. The local mayor said: 'We should be in the construction of bridges of good relationships with Mexico. If we don't have Mexico, we don't have Calexico.' And the director of the McAllen (Texas) Economic Forum Corp claimed that leaders all along the Rio Grande opposed it. 'Every single mayor from Brownsville to El Paso is against it' (both quoted in Hendricks, 2006). Their concern is with the fate of the local economy, but there are also environmental and cultural concerns. The fence would have an environmental impact on the migratory movements of many wild animals, and the Tohono O'odham Native American nation, whose land stretches along 70 miles of the Arizona–Mexico border, is concerned that its people could no longer cross the border freely as they have traditionally done (Ibid.).

There is a similar story throughout the developed world, as liberal democracies seek to protect themselves from illegal immigration through ineffective measures. Cornelius and Tsuda point to the evidence of 'the limited effectiveness of most attempts by governments of industrial democracies to intervene in the migration process linking them to third world labor-exporting countries, at this point in time' (Cornelius and Tsuda, 2004, p. 41). Even though Great Britain has the natural barrier of the ocean, in the British General Election campaign of 2005, the opposition Conservative Party promised 24-hour surveillance of British ports as they claimed to 'take proper control of our borders', and promised to establish a British Border Control Police 'whose sole job will be to secure Britain's borders' (Conservative Party, 2005). On examination it turned out that their proposal for 24-hour surveillance was only practical for 35 out of Britain's 650 sea ports (Oakley, 2005).

The American fence is not unique. At least one European nation has exported a fence elsewhere. Spain has built one around its enclave on Morocco's Mediterranean coast at Ceuta, a 16-foot-high structure of razor wire. Determined refugees have assaulted it with ladders, and in September 2005 at least five died in an attempt.[1] And a feature of European immigration practices has been the building of border fences *within* the national territory, with the proliferation of prison camps for asylum seekers and suspected illegal immigrants. Indeed, this is the current strategy being pursued by most developed nations throughout the

world. Australia has built the Baxter detention centre for asylum seekers, which has moved beyond the razor wire and steel palisades, and has new high-voltage electric fences. According to Amnesty International: 'All the [Australian] detention centres have been declared off-limits to journalists and most non-government organisations have had trouble gaining access. All staff employed in the detention centre – including professionals like nurses, doctors and psychologists – are required to sign secrecy clauses and banned from speaking publicly about conditions inside. Visiting clergy have been warned that access to provide worship services and pastoral care to detainees may be denied if they voice their concerns to the media' (Amnesty International, 2004). Despite the attempts at concealment, reports have emerged of hunger strikes, lip stitching, suicide attempts and riots.

Wherever there are 'detention centres', there are similar reports and similar concerns about conditions. Amnesty reports that in France, conditions in 'reception centres' had 'fallen below international standards', and that in 2004 the Ombudsman for Children in France had expressed 'extreme concern' about the situation of unaccompanied children waiting to be deported (Amnesty International, 2005). In Greece, 'migrants who had been detained for three months on the island of Samos reported conditions of detention that contravened international standards. Concerns were also raised by the UN High Commissioner for Refugees (UNHCR) following a visit to the detention centre' (Ibid.). In September 2005, the BBC news service obtained photographs taken in the detention centre on the island of Lesbos, which showed that 'there is a failure of following fundamental human rights. In terms of unhygienic and overcrowded conditions . . . prolonged periods of detention and detention of unaccompanied children put together with adults' (BBC News, 2005a). Italy uses temporary holding centres where suspected illegal immigrants can be detained for up to 60 days. According to Amnesty: 'Tension in the centres is high, with frequent protests, including escape attempts, and high levels of self-harm. The holding centres are often overcrowded, with unsuitable infrastructures, unhygienic living conditions, unsatisfactory diets and inadequate medical care' (Amnesty International, 2005). Malta, by the end of 2004, held over 800 people, including women and children, in detention centres run by the police and armed forces. After a visit in 2003, the Council of Europe's Commissioner for Human Rights reported concern about the way people were being detained, and in 2005 Amnesty highlighted reports that members of the armed forces had physically assaulted many of the detainees (Ibid.).

In the United Kingdom, Amnesty reports that during 2005 around 25,000 asylum seekers were being held in detention centres, although the government disputes that figure. However, the government will only give a quarterly 'snapshot' figure of how many are being held on a specific day, which on March 26, 2005, was 1,625. On that day, 45 people had been detained for a year or more, and more than 200 had been held for between 4 months and a year (BBC News, 2005b). There have been riots and hunger strikes, and mental health experts have warned of the dangers of suicide. The report by psychiatrists from Oxford University and Australia said that globally 17 million refugees were 'warehoused', confined in centres (BBC News, 2005c). There has been a total of eight suicides by Britain's detainees to date since January 2003. And so whether the border fence marks the external boundary of the national territory or has been internalized around detention centres, the death toll mounts.

Membership and territory

Although parts of the Mexico–United States border are marked by the fence, the vast majority is not. Indeed, most borders have no marking at all, except as lines of a specific colour on pieces of paper. Their *real* existence is in the human imagination. Sometimes the imagination is inspired by geographical features but most often it is not. And even where these boundaries are marked by walls or fences, the fence does not constitute the border, but marks where we imagine it to be. Even where a state is bounded by the sea, its political borders are somewhere beneath the ocean. But not only are national borders imaginary, they are also morally arbitrary: they have rarely been fixed by rational, ethical debate, but often through war and conflict. If we were to ask why a particular national border is located where it is, we would seldom get an answer that stood up to rational or ethical scrutiny.

Perhaps that is why, despite the political fixation on the national border, it seldom features in philosophical debate on national membership. What seems to be of interest to moral theory is not the processes through which national borders get fixed in particular places, but how membership is fixed, how the boundary between insiders and outsiders is identified. This is far more promising territory for the moral theorist, because, although in fact most national membership practices have no moral foundation, they could have, and therefore an ethical distinction between insiders and outsiders, citizens and non-citizens, remains a possibility. And the hope has to be that if moral theorists can identify

a moral distinction here, national governments will, one day, come to adopt it.

That national borders and national membership are distinct can be seen by the fact that practices of membership are much broader and more complex than the drawing of a border around a territory. One does not gain membership when one enters a territory, nor lose it when one leaves. And while the national border may be a convenient place to police national membership, there are many other places and ways in which this can be done. In a world where there is a fair degree of freedom of movement across borders, internal policing of membership takes on greater importance than border controls, and anyway may be far more effective. Finally, membership is not established at the border: whether one is a citizen, a tourist, a migrant, an asylum seeker, etc., may be made clear at the border; but these distinctions and who falls into which class are established elsewhere, and what they actually mean for the individual concerned is determined by the internal policies and practices of the state.

Having said all this, national borders and national membership remain connected, as it is one's relationship with the territorial space within the border that plays some role in determining one's membership: whether one is born within it, or one's parents were, length of unbroken residence, prospects of employment there, etc. It is difficult to think of a practice of membership that makes no reference at all to territorial space, or even why such a practice would exist. This raises a worrying concern for the moral theorist, because now the moral arbitrariness of the national border is connected with national membership: if national membership depends on one's relationship with the territorial space of the nation, and that space can only defined by the border that surrounds it, then it is difficult to see how national citizenship can be immunized against the arbitrariness that makes the border an unsuitable foundation for the morality of membership. This is especially a problem for those moral theorists who see themselves as working within the liberal tradition. Contemporary liberal theory, many would argue, deplores the role of morally arbitrary factors in determining people's welfare and life prospects. Factors to do with gender, 'race', physical ability, mental ability, etc., are arbitrary from a moral point of view, and so any distribution of life chances that is significantly shaped by these factors is morally questionable. Free choice, not fate, is the only moral basis for the distribution of life prospects. But which side of a national border one gets to be born on is perhaps the clearest example of what moral arbitrariness means, and so from the liberal point of view

it should play little or no role in determining one's moral status, welfare or life prospects. And yet in practice national membership plays a highly significant role in determining these things, and from the point of view of the nation state it is the key factor in deciding them.

This membership question is by no means a marginal theoretical concern, and elsewhere I have argued that it is fundamental to the coherence of the whole project of liberal political theory (Cole, 2000). Contemporary liberal theory has focused on the question of distributive justice, of how liberal goods and resources are to be distributed fairly among members. However, can we decide that question before we have decided how membership is to be fixed? The inclusion of members within our principles of justice entails the exclusion of non-members: our obligations of justice end at the membership boundary, and so our concern is only with moral arbitrariness as it affects our own citizens; moral arbitrariness outside of that boundary is not our problem. But, we might argue, this suspension of the principles of justice at the membership boundary can only be justified if that boundary itself is constituted in a way that complies with core liberal principles. We can only suspend the application of our principles in a principled way – we cannot suspend them *arbitrarily*.

Not only that, but the way the boundary is controlled must also comply with liberal principles. If we hold that liberal political justice simply stops at the membership boundary, then we are allowing that this boundary can be constituted and policed in ways that do not comply with liberal principles, that we have a liberal interior with an illiberal boundary, a public sphere of liberal justice with an illiberal border. The evidence presented by the American and Spanish fences, and by the detention of asylum seekers in what amount to prison camps in countries like Great Britain and Australia, strongly suggests that this is the case. Members enjoy liberal goods and freedoms, and non-members can be admitted to those liberal goods and freedoms if members agree to it. But others are to be excluded on illiberal grounds and their exclusion is enforced by extremely illiberal practices. The question I want to pose in this chapter is whether this apparent contradiction between the liberal public space of membership and its illiberal border zone can be coherently sustained.

Liberal failures

The problem for liberal theory is how to reconcile national membership with its abhorrence of moral arbitrariness. This rejection of the role

of morally arbitrary factors is itself connected with the core liberal principle of moral equality, that all people have an equal moral standing, a moral principle of humanity. If national membership conflicts with this principle of humanity, then liberal theorists seem to have three options. The first is to drop national membership from their moral perspective; the second is to drop or compromise the principle of humanity from their perspective; the third is to reconcile these two points of view. The first option – the dismissal of the moral significance of national membership – implies that we should reject membership restrictions from a moral point of view: membership is immoral. The second option – to drop or revise the commitment to the principle of humanity – is to move towards some kind of accommodation with the moral theory known as particularism and the political theory known as communitarianism. This has been proposed by a number of theorists, most notably Yael Tamir (1993) and David Miller (1995). Tamir does this by working out a version of what she calls liberal nationalism through adopting the moral language of communitarianism (Tamir, 1993, p. 5).

The result is a version of liberal communitarianism that fixes on the nation as having moral value, and therefore allows it to play a moral role in justifying restrictions on national membership. It is the particular community, or rather the particular relationships that make it up, not humanity or personhood in general, which gives rise to one's strongest moral commitments, and therefore the moral principle of community outweighs the moral principle of humanity. I discuss liberal nationalism extensively elsewhere (Cole, 2000, chs. 5 and 6) and so will only give brief criticisms of it here. The first is raised by Chris Brown (2001) – that these theorists fix on the nation as holding special moral value for the individual at the very moment when processes of regionalization and globalization question that value. It is becoming harder to equate the 'nation' with a specific nation state, as regions increasingly identify themselves as historical nations; and the nation state itself is not necessarily the prime actor in international relations, as global structures of decision making become more clearly defined (of course, this depends on the relative power of the nation state, but in the face of a nation state with overwhelming power, less powerful nation states turn to global structures to attempt to rein it in).

The second criticism is that the liberal communitarian is inconsistent. If we ought to focus on the community as holding the strongest moral value for the individual, why suppose this to be the nation state or even the nation? People attach moral value to all kinds and levels of community, and it is difficult to maintain that the nation state is always going

to be the most important (most notoriously, the family has very often outweighed the nation state in this way, and in a multi-nation state such as Great Britain, loyalty to the nation can conflict with loyalty to the state). If the liberal nationalist is claiming that people as a matter of fact do value their nation state above all other forms of community and that therefore moral theorists must place the nation at the centre of their thinking, they face the simple rebuttal that many people as a matter of fact do *not* do this. If they are claiming that people *ought* to value their nation state above all else, they are in danger of lapsing into the kind of dangerously reactionary nationalism they would condemn. Following from this, the third criticism is that these theorists are taking an under-theorized and over-romanticized notion of the nation and simply passing over the vast body of thought that shows how problematic it is. To suppose that an idea as complex and ambiguous and shadowy as the nation can help us to solve the moral problems of membership is highly questionable. Any appeal to national identity raises difficult and often dangerous questions about who is to count as a proper member, and any attempt to fix it with any criteria, however seemingly liberal, is always going to leave people who are already members in dangerously marginalized positions. Vague appeals to history and tradition and 'our' sense of who 'we' are need to be treated with deep suspicion and severe criticism (see e.g. Gilroy, 1987, 2000, 2004).

The third approach the liberal can take to this problem is to reconcile the universal with the national, and one way of doing this is to argue that there is no contradiction here – the distinction between citizens and migrants can be made an ethical one through appeal to traditional liberal ideas. Indeed, although I have posed the problem as a clash between human rights and the national interest, it could be replied that the priority of the rights of citizens over those of migrants has a clear moral basis. There is a morally grounded distinction between members and non-members so that their differential access to welfare resources can be explained purely in terms of people's different entitlements, depending on their differential rights.

Again, I have criticized this position in some detail elsewhere (Cole, 2000, ch. 7, 2007) and once more I will rehearse those criticisms briefly. This approach is deeply flawed because it cannot avoid begging the question it is supposed to answer. That question is what can make the moral difference between members and non-members such that members have access to liberal goods and resources which non-members do not have access to. If we answer by saying that what makes the difference is that members have the *right* of access while non-members do

not, this just tells us what we already know. What we *need* to know is how the moral difference between members and non-members is generated in the first place. Appealing to the *fact* that members have rights which non-members do not takes us no closer to answering the important ethical question. Neither can we say that a state has special obligations to its members that it does not have to non-members, because again this takes the distinction between members and non-members as morally given without telling us how to establish it in the first place.

Liberal realism

There is a fourth option open to the liberal theorist, which I have not considered before, which I call 'liberal realism'. I take the idea of 'realism' here from international relations theory, the view that the international order is dangerously anarchic, and the only rational approach for nation states is to pursue their self-interest. Realism rejects what it sees as 'moralism' at the international level; the only rational course is to pursue a self-interested amoralism (Brown, 2002, pp. 66–74). As Jack Donnelly notes, quoting US foreign policy architect George Kennan, a government's primary obligation 'is to the *interests* of the national society it represents . . . its military security, the integrity of its political life and the well-being of its people'. And, 'The process of government . . . is a practical exercise and not a moral one' (Donnelly, 1998, p. 30, quoting Kennan 1985–6, p. 206[2]). This is to take a heavily Hobbesian view of the international order as a dangerous 'natural condition' in which other states have to be regarded as potential threats. Morality stops at the national border and ethical questions concerning global justice are ruled out as irrational. This is not necessarily a complete amoralism as it could be argued that realism, as the most rational tactic in international relations, is also the most moral one – nation states have a moral obligation to pursue their own self-interest.

Liberal realism is the recognition that the national interest needs to be protected from dangers from within the national border as well as outside. Liberal institutions have to be protected, and if we need to put illiberal practices in place to protect them then we must do so. For example, a liberal democracy cannot sustain a welfare system without discriminating against non-members. There is no ethically grounded distinction between members and non-members that the liberal state can appeal to in order to justify this discrimination, and indeed there may be other ways to protect these institutions other than

discriminating against non-members. For example, we could discriminate against other groups, such as the elderly, who are a significant cost to a welfare system. But any discrimination has to be politically acceptable to the population, and the fact is that the most acceptable discrimination is against 'foreigners'.

And so if we believe that particular institutions are essential for a just liberal order, then we must take the necessary steps to protect them. Once we place these institutions in the context of liberal universalism and global justice, we can see that to defend them by discriminating against migrants undermines the ethical basis of the institutions themselves and the whole philosophy that frames them. But in the context of liberal realism we reply that they are *our* institutions, and *we* must have priority of access to them, while outsiders must be excluded. For this to work, of course, we must avoid theorizing the 'we' and the 'they' and take it as a brute fact. We, the 'insiders', are better off with liberal institutions, and this national self-interest dictates that questions of global justice and the universality of morality have no relevance here.

One objection is that this is no solution to the problem at all. We were looking for a *moral* argument for restricting membership, and this is an amoral argument. I argued above that realism can be seen as a moral position, that the national interest ought to be prioritized; but we cannot dig too deep here because if we ask why it ought to be prioritized the only answer is that the state must promote the interests of its own citizens, and we end up begging the question once more. If liberal realism is a moral solution to the problem then it has to remain a morally brutal one with shallow foundations. These institutions are valuable to us and it is best for us that they are protected.

This approach has enormous implications for the very idea of the welfare state, international human rights and global justice. It may be that the idea of global justice has no place in liberal political theory, because to put local liberal institutions within a global context undermines their moral foundations. Instead, our liberal institutions must be defended simply because they are *our* institutions, not in the sense that they are liberal institutions and we are liberal individuals such that we have a 'symbiotic' relationship with them, but rather simply because they are the institutions that benefit us, however we define, or rather don't define, ourselves. If liberal realism is the only theoretically coherent and consistent position that can justify national membership, its coherence and consistence can only be protected by keeping liberal realism a shallow and brutal philosophy. And, in the end, it may represent the immorality of national membership.

However, there may be a way of making liberal realism a morally principled position. It may be that the problems I have focused upon only arise because I am working with a particular level of liberal theory, the level of the individual. However, there is another level of liberal theory, the level of the liberal institution. There is, if you like, a difference between liberal individual morality and liberal political morality, and although both are essentially liberal in their outlook, they can give very different answers to particular questions. From the point of view of liberal individualism, our concern is with the moral status and welfare of the individual moral person, and from this point of view there are no good arguments that can morally justify national membership. However, from the point of view of liberal political theory, our concern is with the welfare of liberal political institutions and the political culture they make possible, and at this level we may be able to construct arguments to justify the moral value of national membership.

There is a tension between the value of individual freedom and autonomy that we find at the level of liberal individualism, and the value of liberal political institutions. Of course, liberal institutions are valuable because they foster individual freedom and autonomy – and other liberal values – but the fact remains that the maintenance of these institutions may require some constraints on individual freedom that would be unjustifiable from a purely individualist perspective. If it can be shown that limits and controls over national membership are essential for the welfare of liberal institutions, then we are justified in enacting them even though they constrain the freedom and welfare of non-members. From the point of view of liberal individualist morality, the choice of which national community one is a member of is clearly to be left to individual conscience and free choice; but from the point of view of liberal political morality these are choices that have profound implications for the institutions of the liberal polity, so that they have to be taken at the level of the liberal polity itself – membership is a *collective*, not an *individual* decision.

If this division of moral labour is plausible then liberal realism certainly can be rescued from the charge of amorality or even immorality. Membership controls are necessary to protect liberal institutions, as the crude version of liberal realism asserts, but liberal institutions are to be protected not just because they are the institutions that benefit us, the members, but because they ensure the moral values of freedom and autonomy. We therefore have a moral justification for membership controls. However, one problem still remains, which may drive us back into the crude and amoral version of liberal realism: that the

freedom and autonomy being ensured by these institutions is still the freedom and autonomy of members, such that this position is in danger of begging the fundamental question – why should the freedom and autonomy of members be valued over the freedom and autonomy of non-members? Why is there a distinction between members and non-members at all? This position may well be plausible if it is the members of the liberal polity who have to give up some degree of *their* freedom and autonomy for the sake of *their* liberal institutions; but if the argument is used to justify membership controls it is the freedom and autonomy of non-members which is being sacrificed for the sake of institutions they have no access to. Once more, at the level of theory the members/non-members distinction is simply taken as given, and at the level of practice its imposition and the disastrous consequences it has for those who fall the wrong side of this arbitrary boundary remains immoral.

Why borders?

The final question I want to consider here is why the developed nations focus so much of their attention on their border zones, given that internal policing of membership is potentially far more effective (see Cornelius and Tsuda, 2004, pp. 9, 20). Cornelius and Tsuda suggest that one reason is political opportunism as groups seek popular support, a tactic used by the opposition Conservative Party in the United Kingdom and the Popular Party in Spain, and far-right groups throughout Europe. It has been a tactic that has been largely successful, and governments, if they wish to remain in power, have had to respond in kind, and so 'fine-tune their immigration policies and devise new ones because these measures are seen as useful in convincing the general public that they have not lost control over immigration' (Ibid., p. 41). The result is that 'Ineffective and "symbolic" immigration control measures are … perpetuated because they reduce the potential for a broad public backlash' (Ibid., p. 42). Roxanne Lynn Doty also sees such border practices as largely symbolic gestures, as 'expressions of the promise for a stable and reproducible inside, a unified territorial identity that can be unproblematically distinguished from the outside.' What all these practices have in common 'is the goal of delivering this promise and the ultimate impossibility of doing so' (Doty, 2003, p. 74).

I think this suggestion of a mixture of political opportunism and symbolic meaning is right, and that in a sense the investment in ever-more expensive and sophisticated border controls by the liberal democratic

nations can be seen as a 'heroic' attempt to preserve the liberal interior from the illiberal exterior. However, that illiberal outside can only be kept at bay by increasingly illiberal border barriers. The alternative, which most commentators agree would be more effective in practice, is to internalize those membership controls, but this would mean the decline and fall of the liberal public sphere and its traditional freedoms and protections, as *all* people are subjected to the same level of surveillance at all kinds of checkpoints. It is not only that the liberal interior has to be protected from 'strange' outsiders who will intrude and change it, but it must also be protected from the equally intrusive and destructive level of surveillance needed to be put in place if membership is going to be effectively policed. This is one of the many liberal paradoxes that surround the morality of membership, that liberal freedoms for some are protected by the destruction of the freedoms of others, and that respecting the freedom of those others means the end of significant liberal freedoms.

There are three possible futures we can consider concerning the morality of membership. The first is this illiberal possibility, that governments in the developed world continue with their fixation on membership – and so do the populations that elect them – but abandon faith in border controls and so introduce internal measures, such as identity cards, passport checking in banks, welfare institutions, education establishments, and so on, so that clear distinctions between members and non-members can be still be made even though borders have been allowed to become porous. In theory everybody should be equally subjected to these controls, but in practice certain groups will be singled out for scrutiny – visible minorities, the poor, the young – all those who cannot be trusted to be *good* citizens will have their *legal* citizenship questioned (Cole, 1998, pp. 134–44).

The second possibility is that the developed nations increase their investment in border protection. After all, you can always build more fencing, installing sharper wire and better surveillance equipment; you can always build more prison camps and call them 'detention centres', so that you maintain the border on the inside, with the same razor wire and equipment; you can always employ more border patrols; and you can always shoot more migrants as they attempt the crossing. There are no limits here – even if the United States did build a fence all along its border with Mexico, it can always add a few feet to it, always build a second fence, always install other protections. And so the second vision is of the world in which border zones become increasingly oppressive and dangerous places, whether they be at the national border, prison camps

within the national territory, or other border zones such as international airports.

The third possibility is that national governments step back from policing membership externally and internally. This will not be because they realize the immorality of membership, but because the costs of policing, wherever it is done, become too high. Cornelius and Tsuda point out that as long as there is demand for foreign labour, 'resourceful immigrants in pursuit of abundant and high-paying jobs . . . will always find a way to circumvent a government's immigration laws, border controls, and any other obstacle placed in their path' (2004, p. 10). But this possibility rests upon the populations of these countries themselves having a change in consciousness about immigration. It may be that after decades taken up with politicians seeking to exploit fear of the 'outsider' in order to maintain their power, they have created highly paranoid communities, very willing to support the political leadership as they take steps against outsiders and highly resistant to any relaxation of immigration controls, but also capable of making more extreme demands and punishing those governing groups that refuse to take them seriously. It is the democratic leaders themselves who have created this monster, but in the end it can only be democratic leaders, not academics, who can cure its paranoia.

Notes

1. *The Independent*, 30 September 2005.
2. It should be noted that Donnelly is heavily critical of realism.

4

Resident Aliens, Non-resident Citizens and Voting Rights: Towards a Pluralist Theory of Transnational Political Equality and Modes of Political Belonging[1]

David Owen

One way of framing current debates concerning the relationship between the rights of political membership due to migrants (both resident aliens and non-resident citizens) and the constitutional democratic polity is in terms of three distinctions that, jointly, delineate the conceptual space within which they occur.[2] The first is the distinction between *territorialized* and *nationalized* conceptions of political community: on a territorialized view, membership of the political community is due to 'competent adults in good standing'[3] as a function of their habitual residence within the territorial jurisdiction of, and, hence, direct subjection to the governmental authority of, the state (or non-state polity), whereas, on a nationalized view, membership of the political community is due to 'competent adults in good standing' as a function of their membership of the national community of a nation state. The second distinction is that between membership of the political community of a polity and membership of the polity. This distinction arises from the fact that it is possible both to be a *nominal citizen* (to use Rainer Baubock's term for 'nationality' in the legal sense) of a polity – and to enjoy various rights and duties thereof – without being a member of the political community of that polity (e.g., children and the mentally incompetent), and also, in our world of plural polities, to be a member of the political community of a polity without being a *nominal citizen* of the polity (e.g., an enfranchised resident alien). The third distinction is that between *exclusive* and *non-exclusive* conceptions of nominal citizenship, where

the former insist that, at least at a given level of governance, there is a norm of *singular allegiance* between an individual and a polity expressed in the injunction of that each individual has one but only one 'nationality' (see, for example, the 1930 Hague Convention on Nationality) at any given time, whereas the latter supports a norm of acknowledgment of *multiple salient ties* between an individual and a range of polities which is expressed in allowing dual or plural 'nationalities'.[4]

Within the conceptual space delineated by these distinctions, there are a wide range of positions that can, in principle, be adopted and defended. Perhaps the most systematic and best known attempt to negotiate this space is offered by Rainer Baubock's 'stakeholder' view of citizenship, which draws on and disciplines the principle of all affected interests (Baubock, 2003, 2005, 2007). In this chapter, though, I will sketch the basis for an alternative view based on the principle of all subjected persons. The route towards the elaboration of this view that I adopt begins by considering two current practices – alien suffrage or resident non-citizen voting[5] and emigrant suffrage or non-resident citizen voting[6] – that have arisen as political responses to the transnational movement of people. I will present an argument for the defensibility of *both* of these practices as elements of an account of transnational political equality predicated on a pluralist view of modes of political belonging. This argument is advanced in four main stages. First, I outline the increasingly widespread use of these practices in their diverse forms. Second, I present a democratic argument for alien suffrage on the basis of Dahl's classic account of the conditions of democratic association. Third, I consider and offer reasons for rejecting the *territorialist* view of Claudio Lopez-Guerra that this Dahlian argument is incompatible with emigrant citizen voting rights. Fourth, I address and offer reasons for rejecting *nationalist* objections to this Dahlian argument (albeit qualifying certain aspects of this rebuttal). I conclude by making explicit the implications of this argument for the relationship of transnational political equality and modes of political belonging.

Two practices of transnational citizenship

Alien suffrage is the practice of enfranchising (some or all) resident non-citizens for (some or all) elections – and may be broadly associated with a territorialized conception of political community. Emigrant citizen suffrage is the practice of enfranchising (some or all) non-resident citizens for (some or all) elections – and may be broadly associated with a nationalized conception of political community. Both of these practices

have significant histories. The former dates at least to pre-revolutionary North America[7] and the first recorded instance of the latter occurs in the USA in 1862 when the State of Wisconsin enabled absentee voting by soldiers fighting in the Union army during the US Civil War.[8] Both also have a significant contemporary presence characterized by considerable diversity,[9] yet until recently, neither had received significant normative attention.[10] This position has now changed – and in this chapter I will be considering arguments proposed in relation to both of these practices. However, it is worth beginning by sketching the current position with respect to the adoption of these practices in order to indicate the significance of this dimension of the spread of 'transnational citizenship', that is, 'the changing and increasingly overlapping boundaries of membership in political communities' (Baubock, 2003, p. 703).

In the case of alien suffrage, the most significant variations concern the following elements: the governmental authority granting voting rights, the scope of the voting rights granted and the degree of selectivity involved in the allocation of any given set of voting rights to resident aliens, where such selectivity most typically concerns (a) the length of the residence required and/or (b) the range of foreign nationalities included. The current position can be represented as shown in Table 4.1.

In respect of emigrant citizen voting, the primary variations also concern three elements: the scope of the voting rights granted, the degree of selectivity with respect to who is entitled to an external vote and the registration/voting requirements that are applied, where these primarily concern (a) the requirement to vote in person on the territory of the state (which may include embassies of the state in other polities) versus the option of voting from outside the territory of the state and (b) the contrast between a single available method of voting and the availability of plural voting methods. The current position is summarized in Table 4.2.

Against this extensive background of practices of transnational citizenship, what normative judgments should we make of the practices of alien suffrage and emigrant voting rights? I'll take each in turn.

Alien suffrage

One may advance normative arguments for alien suffrage on a number of grounds. Thus, for example, one might argue that the right to vote in local and EU elections granted to EU citizens resident within a member state that is not their state of nominal citizenship can be

Table 4.1 Polities and Resident Alien Voting Rights

National		Australia Barbados Belize Guyana Ireland St. Lucia St. Vincent & Grenadines Trinidad and Tobago UK	New Zealand Malawi Chile Uruguay
		Portugal	
Regional or local	Switzerland		Ireland Denmark Finland Iceland Norway Sweden Belgium Luxembourg Netherlands
	U.S.A	European Union (25 Member States)	Estonia Hungrary Lithuania Slovakia Slovenia
			Belize Venezuela (Bolivia) (Columbia)
	Canada Israel		
	in part of polity nationalities	for particular	Universal

Note: This table is drawn from Baubock (2005, p. 684), which is itself an updated and adapted version of Earnest (2004, p. 27).

grounded in the principle of political equality between EU citizens; the normative issue that would arise from this perspective would concern the exclusion of voting rights in the national elections of their state of residence (though one might also argue that if all EU citizens were to enjoy non-resident citizen voting rights in the states of which they are nationals, this would satisfy the requirement of political equality.[11]) Alternatively, one might argue that the right to vote in UK national elections enjoyed by Commonwealth citizens is grounded in the normative

Table 4.2 States and Non-resident Citizen Voting Rights

Type of election	No. of cases	Countries		
		Single voting method	**Plural voting methods**	**N/A***
Legislative elections only	31	Angola, Azerbaijan, *Bangladesh#*, Botswana, Czech Republic, *Fiji*, *Germany*, *Gibraltar*, *Guernsey*, Guinea-Bissau, Guyana#, Iraq, *Jersey*, Laos#, *Lesotho#*, Luxembourg, *Marshall Islands*, Nauru, Pitcairn Islands, South Africa#, Turkey, *Zimbabwe#*	**Australia**, *Belgium*, India#, Japan, **The Netherlands**, Thailand, United Kingdom	Greece, Oman
Presidential elections only	14	Afghanistan, Brazil, Central African Republic, Côte d'Ivoire, Dominican Republic, Ecuador, Honduras, *Mexico*, *Panama*, Tunisia, Venezuela (for recall only)	*Benin*, *Chad*	Bolivia
Legislative elections and presidential elections	20	Argentina, Bulgaria, Cape Verde, Croatia, Dijbouti, Equatorial Guinea, Georgia, Ghana#, Israel#, Mozambique, Namibia, Romania, São Tomé and Principe, Senegal, Singapore#, Syria	*Guinea*, Indonesia, The Philippines	Nicaragua
Legislative elections, presidential elections and referendums	11	*Austria*, Colombia, Moldova, Peru, Poland, Rwanda, *Tajikistan*, Ukraine, Uzbekistan	Portugal, Slovenia	

Legislative elections, presidential elections, sub-national elections and referendums	6	Belarus, *Ireland#*, Russia, Togo, United States	*Algeria*	
Legislative elections and referendums	7	*Canada*, Hungary, *Italy*	Cook Islands, **Estonia**, Latvia, *Sweden*	
Presidential elections and referendums	7	Kyrgyzstan, Niger, Yemen	*France, Gabon*, Lithuania, *Mali*	
Other combinations	19	*Bosnia and Herzegovina*, *Denmark*, *Falkland Islands*, Finland, Iceland, Iran, *Isle of Man*, Kazakhstan, *Liechtenstein*, *Malaysia#*, Mauritius#, *Norway*, Sudan, *Switzerland*, Vanuatu	Micronesia, **New Zealand**, Palau, Spain	
Referendums only	0	–	–	
		Personal voting – 54 *Postal voting* – 25 Proxy voting – 4	Personal & postal – 12 *Personal & proxy* – 7 Postal & proxy – 2 *Personal, postal & proxy* – 2 **Others in addition** – 4	
Total	115 / 114*	83	27	4

Note: This table is an amalgamation of tables 1.3, 1.4, 1.6 and 1.7 in International IDEA and IFE (2007). Personal voting refers to voting on the territory of the state, where such territory includes diplomatic missions and other designated places.

For the column 'Single voting method', ordinary font = personal voting, italics = postal voting and underline = proxy voting; for the column 'Plural voting methods', ordinary = personal and postal voting, italics = personal and proxy voting, underline = postal and proxy voting, italics + underline = personal, postal and proxy voting and bold = other methods in addition to these.

* USA excluded as external voting methods vary by state.

Entitlement to external vote restricted to (some specification of) citizens on official state business.

significance of the historical relationship of the UK to the other member states of this association. Whatever the merits of these arguments (and they may be considerable), both propose justifications of alien suffrage that restrict it to certain classes of resident alien and, hence, these arguments need only be addressed *either* if there are no compelling reasons to support a non-exclusive practice of alien suffrage *or* if the argument for such a non-exclusive practice is limited in respect of the scope of the voting rights encompassed (e.g., it might be compelling for, what we may call, 'local citizenship' but not for 'national citizenship'[12]). In what follows, I will briefly set out an argument for a non-exclusive conception of alien suffrage that entails full inclusion in the political community expressed in comprehensive voting rights for local and national elections.

The argument I propose was first articulated with respect to this issue in the case of *Spragins v. Houghton* (1840), which, focusing on alien suffrage, allowed the Illinois Supreme Court to make clear a general constitutional preference for democratic inclusion where the simple facts of habitation, residence and common social membership establish a political relationship 'between the governed and [the] governing'. According to the court, the Illinois Constitution 'intended to extend the right of suffrage to those who, having by habitation and residence identified their interests and feelings with the citizen, are upon the just principle of reciprocity between the governed and the governing, entitled to a voice in the choice of the officers of the government, although they may be neither native nor adopted citizens' (Raskin, 1993, p. 1405).

We may reformulate the general political argument of the court in contemporary terms as Dahl's 'principle of full inclusion': '*The demos must include all adult members of the association except transients and persons proved to be mentally defective*' (1989, p. 129), where 'adult members of the association' refers to '*all adults subject to the binding collective decisions of the association*' (1989, p. 120; italics in original). As Lopez-Guerra helpfully notes, Dahl's specification of criteria of democracy can be summarized thus:

> (1) governments must give equal consideration to the good and interests of every person bound by their laws (principle of intrinsic equality); (2) unless there is compelling evidence to the contrary, every person should be considered to be the best judge of his or her own good and interests (presumption of personal autonomy); therefore (3) all adults [who are not merely transients (1) and are not shown to be mentally defective (2)] should be assumed to be sufficient

> well-qualified to participate in the collective decision-making processes of the polity (strong principle of equality).
>
> (2005, p. 219)

It is worth noting that Dahl's argument is intended to be general with respect to any form of democratic association, not simply – as Baubock (2007) and Lopez-Guerra (2005) assume – associations specified in territorial terms.[13] However, in the context of a democratic polity characterized by sovereign authority over a territorial jurisdiction, Dahl's account implies that any competent adult who is habitually resident within the territory of the polity and, hence, *subject to* the laws and policies of its government is entitled to full inclusion within the *demos*.[14] Moreover, the strong principle of equality also entails that such inclusion requires comprehensive voting rights in the immediate polity of residence *and* within any multi-level polity in which that polity is embedded, since anything less would involve either the use of 'competence' requirements, which violate the presumption of personal autonomy, or a failure to give equal consideration, which violates the principle of intrinsic equality. Thus, in the case of a non-EU resident alien in an EU member state, it would entail voting rights in EU elections as well as in the local and national elections of the member state in which the alien resides.

Dahl's argument is, I think, highly compelling. It does not, of course, by itself entail an endorsement of alien suffrage since the conditions it specifies could be equally well met by the automatic mandatory naturalization of resident aliens once they have satisfied the residential requirement[15] – and I will address this issue later in this chapter. However, for the moment, I will focus on addressing the claim advanced by Lopez-Guerra that if we endorse Dahl's argument concerning the terms of democratic association and, hence, the requirement of granting voting rights to resident aliens through either alien suffrage or automatic naturalization, then we must also *on the same grounds* reject the practice of non-resident citizen suffrage for all mentally competent expatriates who are not either *transient* absentees (to mirror the non-inclusion of transient aliens) or, what I will call, *state-supported* absentees. The former category would include, for example, citizens away on holiday or on a short-term temporary employment contract, who are otherwise habitually resident in the state of which they are nominal citizens. The latter category would include official representatives of the state such as diplomats and members of the armed forces, but could also potentially encompass, for example, nationals who are non-resident in virtue of working for state-owned commercial enterprises with foreign-based

offices or of pursuing a programme of state-funded education in a foreign country.

Emigrant voting rights

Lopez-Guerra's argument is that, given Dahl's formulation of the principle of full inclusion, 'the demos of a democratic polity must exclude all individuals who are not subject to the laws, together with transients and persons proved incapable of taking part in the decision-making process' (2005, p. 225). He continues:

> Notice that this statement involves two propositions. On the one hand, it *justifies* the exclusion of individuals who live beyond the borders of the state. In other words, it shows that non-residents lack a rightful claim to the franchise. But on the other hand, it also seems to *forbid* their inclusion, even against the will of the demos. What this latter point suggests is that democratic principles ban the extension of voting rights to permanent residents of other states, regardless of any opinion to contrary by rightfully enfranchised individuals. (2005, pp. 225–6; emphases in original)

Although Lopez-Guerra's 'official' line is that he will be focusing on the former, in fact he continually slips between the two propositions, and, indeed, if his argument is cogent, it would support the conclusion that he draws: 'Debates so far have focused only on the necessity of granting political rights to all residents. They have ignored the implication that this *requires* the exclusion of long-term expatriates' (2005, p. 234, my emphasis). Given this argument, Lopez-Guerra claims that the implications for citizenship involve a straight choice:

> Because a citizen has always been, by definition, a holder of political rights, one of two alternatives necessarily follows from the principle of democratic inclusion: either (1) permanent non-residency should imply the renunciation of citizenship or (2) entitlement to political rights should no longer be presupposed as a benefit of citizenship. (2005, p. 228)

A choice that he suggests also affects the idea of dual citizenship: 'The first possibility implies that dual citizenship is incompatible with democracy; the second, that it is acceptable but politically meaningless, because it would preclude multiple franchises' (2005, p. 228).

There are thus three claims that Lopez-Guerra takes to follow from endorsing Dahl's principle of full inclusion:

1. The justified and mandated exclusion of mentally competent expatriates who do not fall within the classes of temporary absentee or state-supported expatriates.
2. The choice between maintaining or severing the relationship between citizenship and political rights.
3. The incompatibility or meaninglessness of dual citizenship in relation to democracy.

However, none of these claims is so entailed – as I shall now demonstrate.

First, we can note that even if one accepts (1) and (2), (3) does not follow since it ignores that fact that, under international law, citizens have a right of diplomatic protection and an automatic right of return to any state of which they are a citizen – and even under conditions in which expatriate voting is banned, these are not politically meaningless entitlements. But perhaps by 'politically meaningless', Lopez-Guerra is just indicating the lack of multiple franchises? However, the fact that entitlement to political rights would no longer be presupposed as an entitlement of citizenship does not logically entail the preclusion of multiple franchises. There are two obvious ways in which this claim to logical entailment breaks down. First, given that, within certain reasonable limits, different states might reasonably take different views concerning the period of time that is required to count as either an enfranchised resident alien or a disenfranchised non-resident citizen (and assume for simplicity that the same period of time is specified for both), if state A adopts a 1-year rule and state B a 5-year rule, then a dual citizen who habitually resides in A will enjoy multiple franchises for four years and, therefore, depending on contingent circumstances, may be able to exercise a vote in both states on one or more occasions. Second, we may note that states may also reasonably take the view that the *annual* residence requirement for counting as a resident of the state for any given year can be less than a full 12 months (indeed, it would need to be!) and if, as in the case of tax laws in some states, the period were 6 months or less, then multiple franchises could be entirely compatible with the formal separation of citizenship and political rights not simply for a limited period (as in our first example) but continuously.

Second, even if we accept (1), then (2) does not logically follow since there is a third option in which citizenship maintains its relationship

with an automatic entitlement to political rights, but these rights are practically understood as 'active' or 'inactive' depending on a given citizen's residential status.[16] Such a view is conceptually distinct from Lopez-Guerra's two options since citizenship remains a source of political rights and does not require the renunciation of citizenship by long-term non-residents. Notice also that this option would cohere with, and accord greater significance to, the automatic right of citizens to (re-)entry into any state of which they are a citizen.

Third, (1) does not logically follow from Dahl's principle of full inclusion since while being a habitual resident of a state is a *sufficient* condition for being subject to binding collective decisions, it need not be a *necessary* condition of being subject to the rule of the government of that state. Suppose that a state decides to have a referendum on whether to abolish expatriate voting or denaturalize long-term expatriates. Whatever the result of such a referendum, expatriate citizens are subject to the authority of the collective binding decision taken. Or consider a case in which that the UK parliament debates withdrawing entitlement to NHS care or state pensions from all persons who are not habitually resident in the UK. Again, expatriate citizens are subject to the outcome of the collectively binding decision. The basic problem with Lopez-Guerra's argument is that it mistakenly holds that being subject to a collectively binding decision by the political community requires that an individual is habitually resident within the sovereign territorial jurisdiction of the polity. But the fact that X lives in state A rather than in state B of which he or she is a citizen does not mean he or she is not subject to any and all of the authoritative decisions of state B regarding the entitlements, privileges, powers and immunities (and their correlatives) that make up the legal character of citizens of state B; on the contrary, he or she is subject to its authority in this respect.[17] It means simply that a significant range of the laws of state B are practically tied to, and activated by, residential criteria and, hence, do not come into effect with respect to X as long as he or she is a non-resident (and note that some laws specifying the rights and obligations of X in relation to state B only come into effect if X *is* a non-resident). Consider, by analogy, that if two parties sign a contract specifying a set of obligations that arise if and only if A comes to reside on B's property, the fact that the contract has a specific activation clause in relation to these obligations doesn't entail that A and B are not both subject to the authority of the contract, it simply determines what being subject to the authority of the contract under a given set of circumstances demands.[18]

These considerations suffice to undermine Lopez-Guerra's use of Dahl's argument for the categorical rejection of expatriate voting rights, but they do not thus far establish the opposed conclusion that Dahl's full inclusion principle requires emigrant citizen voting rights for other than transient absentees and state-supported expatriates, not least since the responses to claims (1) and (2) above indicate the possibility of, and some grounds for, another option, namely, maintaining the link between citizenship and political rights but including a residential activation clause such that the political rights of long-term (i.e., non-transient) expatriates are passive or dormant once the period that they have lived abroad passes a given non-transient time threshold.[19] The argument for this option would be that since many of the rights and duties of citizens are activated only by residence, they do not affect the basic interests of citizens who are expatriates.

To consider this view, note two initial points. On the one hand, the weight of this argument appears very considerable for *local or municipal citizenship*, which is largely specified in terms of, and directed to, the government of a residential population (which is why arguments for alien suffrage are often taken to be most directly compelling for local or municipal elections). Here I think we should endorse Rainer Baubock's claim that the 'adequate principle for determining local citizenship is automatic *jus domicile*' (2007, p. 2430). On the other hand, the argument appears of negligible weight when we consider constitutional referendums since these directly concern the nature of citizenship in the state in question and, hence, engage the fundamental interest of all citizens *as citizens*, namely, their right to justification in respect of the rules and norms that compose the terms of the constitutional association of which they are members.[20] Were it that case that all the different types of voting opportunity that citizens enjoy could be neatly divided as relating purely to the government of the population resident on the territory of the state or to the government of the constitutional terms of political association, there would be a good argument for denying emigrant voting with respect to the former and allowing it with respect to the latter. But no such neat division is plausible. This is most obviously illustrated by the case of national elections to the legislative (and/or executive) body of government whose decision making will necessarily range across the governance of both resident persons and citizens. However, what this demonstrates is that both resident aliens and emigrant citizens are subject to political rule on the part of the government of the polity and, hence, should be entitled to a vote in the election of that

government. This follows because the principle that all subjected to government should have a voice in the determination of the government to which they are subjected is a *non-scalar* principle – entitlement to a vote is not a function of the *degree* to which you are subject to government (say, the number of laws that practically apply to you or the significance of the interests affected by them) but of the fact that you are so subject. Hence, on this view, both resident aliens and emigrant citizens should be entitled to voting rights in national elections.[21] (Notice though that the non-scalar character of the all-subjected principle does not entail that the votes of all enfranchised parties should weigh equally).

An alternative (and much more radical) proposal given that national government does not lend itself to a neat division of government of residents and of citizens would be to adopt Lopez-Guerra's territorialist suggestion that citizenship be specified in purely residential terms so that, adjusting for a short transient-determining time lag, the classes of residents and of citizens map onto one another through automatic mandatory naturalization of residents and denaturalization of non-residents. The basic problem with this proposal is that any politically sustainable principle for the distribution of political membership needs to meet certain basic standards of sociological and psychological realism, yet this proposal could only be a viable principle if one's identification with, or sense of belonging to, a polity were purely a function of residence combined with automatic mandated political inclusion such that non-residence plus automatic mandated political exclusion would suffice to eliminate one's identification with the polity of one's original nationality. This is unrealistic on two grounds. First, as Baubock remarks:

> from a perspective of political integration, it is important that migrants are seen to choose citizenship voluntarily rather than having it imposed on them. Through their voluntary decision to become citizens, immigrants visibly link their own future with that of the country of settlement. This provides a stronger basis for solidarity in societies of immigration than a mere equalization of rights.
>
> (Baubock, 2007, p. 2419)

Second, the proposal fatally overlooks the sociological reality that (first-generation) migrants typically retain a strong sense of identification with their polity of original nationality, continuing to regard the quality of their own lives as bound to that community of fate. This sociological reality is reflected in the dense transnational webs of social, economic and political involvement that arise between migrant communities and

their polities of origin. The point here is not that, for example, the economic value of remittances to the sending polity should entitle migrants to political rights, but rather that such patterns of activity on the part of migrants express (at least in part) their continuing identification with the (fate of the) community of their polity of origin. In the light of these considerations, it would neither be politically prudent nor just to distribute political membership in a way that ignored the salience and value of the allegiances and affiliations of migrant groups.

Nationalist objections

Nationalist conceptions of political community share a commitment to the view that membership of the nation is a source of intrinsic value that binds co-nationals in relations of special obligation to one another and grounds their common interest in political self-determination through a polity whose membership is defined in national terms. Yet if we distinguish between ideal-typical models of ethnic nationalism and liberal nationalism, we can note that these models have rather different implications for the issue of voting rights for resident aliens and emigrant citizens.

In the ethnic case, there is a clear commitment to restricting political membership to members of the ethnos and, given the priority of the nation to the state, to extending voting rights to all members of the ethnos irrespective of their residential status on the basis of their common involvement in the destiny of the nation. Yet in the same way that a purely territorialist conception of political community fails to acknowledge the salience of sources of belonging that are not based on residence, so this conception of political community fails to acknowledge sources of belonging that arise out of the ordinary activities of social membership and of being subject to political rule – and can be rejected for this reason.

The same is not true of the liberal version of statist nationalism most prominently associated with the work of David Miller (see especially Miller, 1995, 2007). It has argued by Baubock – in work written prior to the publication of Miller (2007) – that this conception of political community will regard the 'persistence of transnational ties among migrants . . . as an obstacle to be overcome through assimilation into the receiving nation':

> Liberal versions of statist nationalism will not reject ethnic diversity in societies of immigration as long as it does not conflict with

> a shared national identity. Yet persistent active political participation in a country of origin is hard to reconcile with this conception of political community.
>
> (2007, pp. 2416–7)

Baubock takes this view since he regards such a liberal conception of statist nationalism as seeing national identity as important only in instrumental terms, yet this is not Miller's view. On the contrary, Miller argues that the intrinsic value for co-nationals of membership in a national community is a necessary condition of national identity in a liberal state being able to play the instrumentally valuable role of promoting solidarity, trust and conditions of social justice:

> the point to make about the instrumental value of nationality is that it is parasitic on its intrinsic value in the following sense: compatriots must first believe that their association is valuable for its own sake, and be committed to preserving it over time, in order to reap the other benefits that national solidarity brings with it.
>
> (Miller, 2007, p. 38)

Notably, Miller goes on to add:

> Whatever value we as outsiders may attach to other people's sense of national belonging, a political association that was entered into for instrumental reasons could not work in the way that a national community does. And in fact the way that most people think about their nationality reveals that its value for them is indeed intrinsic. They would, for instance, profoundly regret the loss of their distinct national identity, even if they were guaranteed the other goods that nationality makes possible, stable democracy, social justice, and so forth.
>
> (2007, p. 38)

More recently, Miller has also made it clear that he does not see any objection in contemporary societies to the increasing widespread practice of dual citizenship: 'the idea that immigrants must identify exclusively with their new homeland becomes anachronistic once the multicultural character of the receiving state is recognized' (Miller, 2008, p. 12). Since, moreover, being a member of the national community is to have a fundamental interest in the nation state as 'a culturally self-determining political community' (Miller, 2008, p. 5), the liberal

nationalist position is, contra Baubock, entirely compatible with emigrant citizen voting rights. However, and on the same basis, it does not appear to be compatible with alien suffrage at the national level. While the liberal nationalist need have no objection to alien suffrage at a local or municipal level (indeed, such a practice may be welcomed as form of initiation and training in the customs and values of democratic citizenship in this nation state), the identification of political rights with the idea of national self-determination would seem to entail that becoming a member of the cultural nation is a necessary condition of acquiring voting rights.[22]

Notice that if this articulation of the value of nationality is cogent, it will not – contra Rubio-Marín (2000) – be adequately addressed by a rule of automatic mandatory naturalization without the requirement of surrendering one's existing nationality. This is the case for two reasons. First, while residence entails social membership in the sense of everyday participation in society, social membership is not a sufficient condition of integration into the cultural nation. Second, it is important that for membership of the national community to be seen as intrinsically valuable, naturalization is – and is seen to be – a deliberate public commitment on the part of migrants that, as a voluntary act (in the relevant sense), gives expression to the intrinsic value of nationality. This is why theorists such as Miller would insist on (a) the decision to naturalize as requiring a voluntary application and public commitment by an immigrant and (b) the legitimacy of citizenship tests that encompass, for example, 'a working knowledge of the national language, and some familiarity with the history and institutions of the country in question' (Miller, 2008, p. 15), where these are understood as both instrumentally relevant to political participation and evidence of having absorbed some aspects of national culture.

On the view I have been articulating and defending, this liberal nationalist stance is objectionable on two counts: first, its exclusion of resident aliens from national voting rights, and, second, its endorsement of citizenship tests. The latter, in functioning as *de facto* competence tests (in Dahl's terms), offend against the presumption of personal autonomy since neither a working knowledge of the national language nor familiarity with the history and institutions of the country are necessary conditions of being competent to form and express one's political judgement in an electoral context. Moreover, on the Dahlian view that I endorse, it is clearly the obligation of the polity to put in place arrangements that effectively enable members of the demos to co-determine the agenda and make informed decisions, where such provisions could

include, for example, the publication of election materials in several languages. Notice that one can endorse this objection even if one accepts Miller's account of nationalism. Thus, for example, in the case of linguistic incompetence, we may note that this is neither mental incompetence nor a reliable ground for ascribing non-assimilation to the cultural nation. Consequently, the most that the liberal nationalist can reasonably demand is a commitment on the part of an immigrant to trying to acquire competence in the vernacular language of the polity, not the actual achievement of competence.[23]

More fundamental for our concerns is the liberal nationalist restriction of voting rights to members of the cultural nation. What might justify this principle? The liberal nationalist contention is that national community is intrinsically valuable and the only reliable and sustainable basis for realizing the goods of a liberal polity is through national self-determination since this best preserves an effective sense of belonging together as a national community. The key issue here is the empirical claim invoked by this position. Unfortunately, this empirical claim is difficult to address not because it is necessarily compelling but because we lack sufficient evidence adequately to assess it.[24] Thus, much of the empirical evidence available would apply equally to the liberal nationalist model endorsed by David Miller, the constitutional patriotism model affirmed by Jurgen Habermas (1997; 2002), and the belonging to a polity model proposed by Andrew Mason (2000), where both the latter two models are compatible with alien suffrage at a national level. Some positive, though weak, support for my argument can be derived from the fact that some democratic states have granted alien suffrage at a national level to a selected class of resident aliens over a significant period of time without this practice becoming an issue of significant political import (e.g., Irish and Commonwealth citizens resident in the UK). Moreover, the example of New Zealand, which has, since 1975, fully enfranchised all resident aliens after a only single year of habitation without apparent ill effect, is also supportive, though the fact that it cannot, as a single example, be taken to be representative of democracies in general entails that little weight can be placed on it. Consequently, we have to admit empirical uncertainty in this context, and, therefore, I think that two reasonable options present themselves.

The first is to adopt the 'Wisconsin' model, according to which voting rights are granted to aliens who declare the intention of naturalizing in advance of their actually becoming citizens.[25] This compromise position acknowledges the uncertainty of the empirical evidence but allows resident aliens who publicly commit themselves to becoming citizens

to enjoy comprehensive voting rights. The advantage of this model is that the public declaration satisfies what can reasonably be demanded in terms of acknowledging the value of nationality, while ensuring both that resident aliens who take this route are not disenfranchised by the fact that naturalization procedures are often slow and cumbersome, and that they are integrated into national citizenship through the practice of political membership. The second option is to argue that in the face of the brute fact that resident aliens are subject to the laws and policies of the polity in which they reside, the onus must lie on the position that would seek to restrict access to comprehensive voting rights to offer appropriately compelling evidence for such restriction. In the absence of such evidence, the principle of democratic inclusion has priority to that of nationalist exclusion. The judgement between these options is one in which the relationship between prudence and principle is finely balanced, and while I think that either could be reasonably endorsed, my own preference is for the latter. This is so on two grounds. First, while we know that resident aliens have a real and important interest in being able to engage in the election of those who govern them, we do not know that denying comprehensive voting rights to them will serve to secure any end of greater importance. (Against this view, it might plausibly be argued that if the relevant empirical evidence in support of the liberal nationalist position emerges, it would be a greater injustice, as well as politically more difficult, to disenfranchise resident aliens who have enjoyed comprehensive voting rights than it is not to grant them, except under Wisconsin rules, in the first place. This is a non-trivial objection.) Second, the inclusive option coheres better with the background view of justice that I support on independent grounds, according to which the fundamental right of persons is the right of justification with respect to the forms of power to which they are subject. Thus, with the qualification that that this judgement is subject to rebuttal by empirical evidence, I maintain the view that resident aliens should enjoy national voting rights.

Conclusion

The argument defended in this chapter presents the case for the following arrangements in respect of voting rights:

- All non-transient mentally competent adult residents of a polity should enjoy comprehensive voting in relation to elections in that polity (and any polity in which it is embedded).

- All mentally competent adult (first-generation) emigrant citizens of a polity should enjoy voting rights in relation to national – but not local (unless they are transient emigrants) – elections.
- All mentally competent adult citizens of a polity, but not other residents, should enjoy voting rights in relation to constitutional referendums concerning the character of citizenship.

Although I have focused on the first two, the third can be straightforwardly derived from the argument concerning subjection to government that I have offered. On the account offered, this articulation of transnational citizenship is required because these arrangements are necessary to support political equality in the context of both residence-based and nationality-based modes of subjection to government as well as both social and national sources of political belonging. (For reasons of space, I have not addressed the various pragmatic objections to, difficulties for, and mechanisms of such arrangements that a fuller account would need to engage.)[26]

It may be, of course, that this pluralist position with respect to political belonging marks only an empirically transient stage in the development of transnational citizenship as new forms of polity or new understandings of belonging emerge; for the moment, however, I take such a pluralist view to track more adequately the sociological and psychological reality of migrant transnationalism and the normative issues that are raised by this feature of our contemporary political landscape.

Notes

1. I am much indebted to Rainer Baubock, Andrew Mason and Graham Smith for their very helpful comments on an earlier draft of this chapter; although neither is persuaded by the argument presented here, their criticisms have forced me to clarify and, hopefully, strengthen it.
2. The internal architecture of the conceptual space delineated by these distinctions can be further complicated by considering, for example, different models of democratic citizenship.
3. By this formula, I simply wish to designate the fact that it may be defensible, within the bounds of the recognition of human rights, to defend the claim that there is some scope for specifying requirements of competence (e.g., exclusion of the mentally disabled) and of good standing (e.g., not currently serving a sentence for criminal acts). The latter is controversial and the former might incline one to argue for 'proxy' votes (or some other mechanism) to support the representation of the interests of the mentally infirm but I will leave these issues aside in this chapter since they would take us too far afield.

4. For an overview of the expansion of dual citizenship, see Sejersen (2008) and for theoretical discussion, see Faist and Kivisto (2007).
5. For a helpful Web-based guide, see the 'Around the World' section at The Immigrant Voting Project, http://www.immigrantvoting.org.
6. For an overview of the history and current practice, see the International IDEA and IFE joint report (2007) *Voting from Abroad: The International IDEA Handbook*, which can be accessed at http://www.idea.int/publications/voting_from_abroad/upload/Voting_from_abroad.pdf.
7. In pre-revolutionary America, voting rights in the colonies were conducted in terms of the general rule that voters and, indeed, office holders be (white, male, property-owning) residents rather than British citizens. This practice of alien suffrage survived the revolution of 1776: 'Vermont's first Constitution allowed for both naturalization and enfranchisement of aliens, and the young Commonwealth of Virginia accomplished the same purposes by statute. In the commonwealth of Pennsylvania, after only two years of residence, aliens were permitted to vote' (Raskin, 1993, p. 1391). This practice was present in one form or other in one or more states in the USA until 1926. For fuller discussion of the history of alien suffrage in the USA see Neuman (1992), Raskin (1993), Harper-Ho (2000), Varsanyi (2005) and Hayduck (2006). For contemporary jurisprudential and political arguments for its reintroduction in the USA, see Rosberg (1976), Aleinikoff (1990), Neuman (1992), Raskin (1993), Tiao (1993), Harper-Ho (2000), Brozovich (2001) and Hayduck (2006). For a discussion on non-citizen voting in the contemporary EU context, see Day and Shaw (2002) and in relation to migrant workers in Western Europe, Rath (1990) and, more generally, Moulier-Boutang (1985).
8. Voting from Abroad (2007), p. 42.
9. See Tables 4.1 and 4.2.
10. In my view, the deepest reflection on these issues can be found in Baubock (2003) as general theoretical background, in Baubock (2005) on both alien suffrage and emigrant suffrage and in Baubock (2007) on emigrant suffrage. On alien suffrage, see Note 6 supra, and, on a more theoretical plane, Beckman (2006) as well as Rubio-Marín (2000) in respect of the full inclusion argument. On emigrant suffrage, see particularly Lopez-Guerra (2005) and Spiro (2006). Some more general theoretical reflections on suffrage can be found in Levinson (1989).
11. Spiro (2006, p. 124 fn. 122) notes that the Council of Europe advocates this position.
12. This is the position adopted in Baubock (2005).
13. They may be misled by the use of the word 'transients' but in this context 'transients' simply refers to someone who is only temporarily subject to the authority of the polity.
14. Although Dahl talks of the principle of all affected interests, I agree with Lopez-Guerra (2005, pp. 222–5) that since it is being governed that is the normatively relevant issue, the relevant principle is that of being *subjected to* rule rather than *affected by* rule. This does not mean that being affected does not have moral significance – merely that it does not have the *political* significance relevant to the normative issue at stake here. For defences of the all-affected principle, see Shapiro (2003a, 2003b) and Goodin (2007).

15. This position is given conditional support by Rubio-Marín (2000) but her primary argument is for full inclusion; the argument for automatic mandatory naturalization is a secondary argument that follows if and only if claims about the instrumental value of national identity for sustaining liberal democracy are compelling – see pp. 102–4.
16. This pertinence of this distinction between 'active' and 'inactive' rights hangs on being able to sustain a distinction between the entitlement to a right and the entitlement to exercise this right which I can't defend fully here. The intuition that it expresses is that one can be entitled to a right and, in this sense, possess the right, even if one is only entitled to exercise the right under certain specified conditions.
17. It might be objected that while X is subject to the authority of State B in respect of the legal character of its citizenship, he or she is only subject to the political rule of State B in the required sense if X is subject not only to the authority of State B but also its coercive power. Even if we were to grant this, however, it would still apply to the specific examples offered and there are, more generally, a range of measures that states can and do take to exercise coercion at a distance – a point nicely illustrated by penalties for non-compliance with tax law for emigrant US citizens.
18. It might be objected that while both are subject to the authority of the contract, they are only subject to it in the required sense if non-compliance can be penalized through the exercise of coercion. It is not clear to me that this is the relevant sense of subjection.
19. A version of this practice exists in, for example, Australia (6 years with possible extension), Canada (5 years), Cook Islands (4 years), Guinea (19 years), New Zealand (3 years) and United Kingdom (15 years).
20. Here I draw on Tully (2002) and Forst (2007, especially ch. 8).
21. Notice though that the non-scalar character of the all-subjected principle does not entail that the votes of all enfranchised parties should weigh equally. Although this would entail an adaptation of Dahl's principle of strong equality, it seems sensible to allow for scalar weighting of the votes of emigrant citizens so as to ensure that states with very high emigrant populations do not find that domestic voters are outweighed by emigrant voters. This is one point at which one might take the view that a more fundamental principle is needed to determine such weighting – and Baubock's stakeholder view would be the obvious candidate (see particularly Baubock, 2007).
22. In principle, a liberal nationalist could attribute intrinsic value to national belonging but argue that national self-determination is merely instrumentally valuable in sustaining the national community and, hence, that alien suffrage may be granted as long as there is no reason to think that resident aliens will exercise them in such a way as to undermine national community. This might fit, for example, with the UK practice of granting national voting rights to Commonwealth citizens who are resident in the UK, but it is hard to see a liberal nationalist advocating a rule of universal alien suffrage on this basis independent of a very strong and selective immigration regime of the sort that Christian Joppke (2005) has suggested is in decline.
23. It might be objected that we could in principle 'strengthen' Dahl's principle of inclusion to require linguistic competence without violating the personal autonomy or equal consideration requirements on the grounds that

one could not understand the public debates unless one were competent in the language of public affairs. While I think that it is highly desirable that residents speak the public language (and that state-subsidized language classes should be widely accessible), this objection seems to me to underestimate the ways in which knowledge and understanding of public debates in migrant communities is mediated through the linguistically competent to other members of the community – and, consequently, I do not take lack of linguistic competence to be a sufficient condition to undermine the entitlement of long-term residents to national voting rights.

24. Miller (2008) acknowledges this point while trying to offering some indicative evidence in support of the liberal nationalist view.
25. Following the decline of alien suffrage in the USA after the 1812 war, its strong re-emergence was led by admission of Wisconsin to the Union in 1848 in the form of a grant of suffrage to resident aliens who were 'declarant aliens', that is, had declared their intention of becoming citizens. See Raskin (1993, p. 1391), drawing on Neuman (1992).
26. Many of these issues are addressed in Spiro (2006), Baubock (2007), Grace (2004) and IDEA (2007).

5

Becoming Citizens: Naturalization in the Liberal State

James Hampshire

Introduction

Liberal states adopt widely varying attitudes and policies towards foreign residents who apply to become citizens. Some encourage naturalization and make it relatively easy, while others set high barriers and, in some cases, make it all but impossible. This diversity of practice raises several normative questions. What can be expected of people who want to become citizens? What sort of requirements can be made? And what normative principles are relevant in determining these matters?

The normative debate about naturalization in liberal states has tended to polarize around two positions, which I shall describe as 'liberal minimalism' and 'nationalism', respectively. Liberal minimalists typically argue that admission to citizenship should be straightforward and naturalization requirements limited to a period of minimum residence. Joseph Carens (2002), for example, argues for 'easy' naturalization based on the *de facto* social membership of permanent residents. In stark contrast, nationalists argue that assimilation to the national culture of a state, even a liberal state, should be a precondition of naturalization. On this view, citizenship is essentially derivative of nationhood, and access to the former should be preceded by a demonstration of assimilation to the latter.

In this chapter I argue that neither liberal minimalism nor nationalism is entirely persuasive. The nationalist argument suffers from a number of flaws, both normative and empirical, which render it incompatible with liberal politics. The liberal minimalist argument for easy naturalization is more compelling, but it underestimates what liberal states can legitimately require of naturalizing citizens. Indeed, I argue that some requirements beyond residence are consistent with liberal

principles, and, moreover, there are resources within liberal theories of citizenship that support more demanding naturalization policies than minimalists allow.

Two caveats about some simplifying assumptions made throughout the chapter are in place here. First, the discussion assumes that the applicants for citizenship in question are permanent residents who enjoy no special status (such as spousal or filial relation to existing citizens). In practice, naturalization policies are complex, with many exemptions, restrictions, and special privileges. No doubt these complications figure in actual policy decisions, but my aim here is to consider general normative principles as they apply to basic naturalization policies.[1] Second, the discussion is limited to those who are already legal residents in a state and who seek to become full citizens. It does not address the question of what principles should inform original admission decisions, that is, immigration policies. The assumption throughout is that the people who are applying for citizenship have been legally admitted to the state in question on a permanent basis.

Naturalization policies in liberal democratic states

Before proceeding to the theoretical argument, I begin by outlining current naturalization policies across a range of liberal states, including the classic settler countries such as Australia, Canada and the United States, as well as European countries where naturalization has become a subject of growing controversy in recent years. The first point to observe is that none of these states grants citizenship automatically to anyone who cares to ask. They all make some requirements of those who seek admission to full membership of the political community. While policies vary from country to country, there are four key requirements according to which applicants for naturalization are typically assessed: residency; language proficiency; dual nationality; and civic or cultural knowledge tests.[2]

Residency requirements are the least controversial aspect of naturalization policies and are demanded by every liberal state. Whilst the duration of minimum residence varies, the idea that applicants should have lived in the state for which they seek citizenship for an extended period of time does not. Within Western Europe (the 'old EU 15' – the 15 countries making up the European Union prior to the 2004 expansion – plus Norway and Switzerland) the normal minimum residence for naturalization ranges from 3 to 12 years. Belgium and Ireland have the shortest minimum residence (3 and 4 years, respectively), while

Switzerland has the longest (12 years). The European average is 7 years.[3] In the 'classic' countries of immigration, minimum residency requirements are much shorter than in Europe. For most applicants in the United States the minimum period is 5 years, for Canada 3 years and for Australia just 2 years.

Language proficiency is also a widespread requirement for naturalization. Of the old EU 15, 11 require applicants for naturalization to demonstrate proficiency in the official language of the state (the four countries that do not make such a requirement are Belgium, Ireland, Italy and Sweden). Looking beyond Europe, Australia, Canada and the United States all require that applicants are able to speak and understand basic English, and in the case of the United States also write a basic sentence in English. After residency requirements, then, language proficiency is the most ubiquitous requirement for naturalization. It is also generally uncontroversial. A basic proficiency in the official language of the state is widely seen as essential to effective participation in civil society and the labour market, as well as a prerequisite for informed political participation. While the implementation of the language tests has not always been pursued with alacrity (until recently, the UK for example did not apply language requirements with any rigour), the principle is widely accepted.

Acceptance of dual nationality is both more contested and more variable than residency requirements. In some states dual nationality is an accepted and politically uncontroversial feature of naturalization policy, whilst in others it is the subject of divisive debates (Hansen and Weil, 2002). This has resulted in quite divergent policies, with some liberal democracies apparently indifferent to whether applicants retain their original citizenship, and others officially demanding its renunciation.

Europe is split on the issue. Eight Western European countries officially tolerate dual nationality and seven do not (although among the latter group there is a growing recognition of the unavoidability of dual nationality and there are exemptions in many such states). Interestingly, acceptance of dual nationality is much less common in the 10 member states that acceded to the EU in 2004: only Cyprus, Hungary and Malta allow naturalizing citizens to retain their previous nationality (Howard, 2005, p. 713). In the classic settler countries beyond Europe, dual nationality is tolerated and even endorsed.

In addition to this variation in official policies, there is also considerable variation in the degree of politicization surrounding dual nationality. Perhaps the two most extreme examples are the United Kingdom and Germany. The United Kingdom has long been indifferent to dual

and even plural nationality. No effort whatsoever is made to encourage applicants for naturalization to relinquish their current citizenship or even citizenships (Hansen, 2003). The situation in Germany could hardly be more different. Described in 1974 as an 'evil' (*Übel*) by the German constitutional court (BVG), dual nationality remains controversial in German politics, and has played a key role in recent attempts to reform nationality law (Hailbronner, 2002). The reasons behind these differences cannot be considered in any detail here; suffice to say that historically speaking former colonial powers that democratized early tend to have more liberal citizenship laws, including acceptance of dual nationality (Howard, 2006, p. 447).

Naturalization tests take different forms in different countries, though in general the classic immigration states and a growing number of European states make at least some demands in this area. Tests can be conducted by written examination or interview, and range from relatively simple assessments of basic civic knowledge to challenging questions about the country's history, culture and supposed mores, and even to the individual applicant's values and attitudes to controversial issues.

Australia, Canada and the United States all have some form of naturalization test. The Australian Citizenship Act 2007 introduced a written test on the 'responsibilities and privileges' of Australian citizens and 'Australia's values, traditions, history and national symbols' (questions were previously asked during a short interview);[4] the Canadian citizenship test is usually in written form and covers a wide range of factual questions on Canadian history, geography, government, and legal system; in the United States, part of the scheduled naturalization interview compromises a 'civics' test during which applicants must demonstrate 'a knowledge and understanding of the fundamentals of the history, and of the principles and form of government, of the United States'.[5] Again, the questions asked are largely factual but not all might be considered as basic as the naturalization guidelines suggest.

In Europe, naturalization tests are a more recent development, and are currently the subject of intense debate in several countries. At the time of writing, six of the old 15 EU member states stipulate that applicants must demonstrate knowledge of the host country either through a written examination or interview (these countries are Denmark, France, Germany [though only in some *Länder*], Greece, the Netherlands, and the United Kingdom). The appropriate content of naturalization tests is much disputed. Some argue that they should be restricted to civic knowledge, others that they should include questions about the history

and culture of the host country, and even its putative values and/or the values of the applicant. I shall consider the legitimacy of these issues below.

If nothing else, this brief overview illustrates that there is considerable variation in naturalization policies across liberal states. In the remainder of this chapter, I want to consider what liberal minimalist and nationalist theorists have said about these matters, before making some tentative conclusions about what normatively desirable naturalization policies would look like in a liberal state.

Making naturalization easy

Those who I describe as 'liberal minimalists' typically view citizenship in terms of the rights and liberties held by individuals against one another and the state. On this view citizens have few obligations towards the wider political community beyond obedience to the law; they enjoy fundamental rights that cannot be abrogated, and they are to be interfered with as little as possible (Heater, 1999, p. 4). Citizens are 'free and equal persons', to use John Rawls' phrase, and all persons living under shared institutions have an equal claim on the rights of citizenship. Given this inclusive and relatively undemanding conception of citizenship, it is not surprising that liberal minimalists tend to endorse easy naturalization of permanent residents (see, for example, Ackerman, 1980). Thus they typically support relatively short residency requirements, accept dual nationality, and are sceptical if not hostile towards cultural knowledge tests. There is less of a consensus over language proficiency, with some liberals considering it to be important and others not, but as compared to nationalists, liberals are generally less demanding in this area too.

The liberal minimalist approach is exemplified by the Canadian political philosopher Joseph Carens. In a characteristically astute paper on citizenship and residents' rights, Carens (2002) sets out his moral argument for easy naturalization. He begins by suggesting that we should distinguish between requirements, norms and aspirations in the naturalization process: requirements are legally enforceable standards that applicants for citizenship have to meet; norms refer to expectations that current citizens might have of applicants, but which are not properly the subject of legal enforcement; whilst aspirations refer to hopes that citizens might have of applicants, but which it would not be acceptable to expect of them. Carens believes that with regard to the first category (requirements) the standards should be set low, and he holds that many

things that we currently require should be thought of as norms or aspirations. Whilst we might expect or hope that permanent residents who wish to become citizens have adapted to the host society in a number of ways – for example, by learning the official language, accepting liberal values or developing a sense of loyalty and patriotism – Carens contends that we cannot legitimately compel them to do so. What *can* be required?

Carens's answer to this question is straightforward: the only standard that is 'ultimately justifiable' is length of residence. It is 'a matter of fundamental justice' that 'anyone who has resided lawfully in a liberal democratic state for an extended period of time (e.g. five years or more) ought to be entitled to become a citizen if he or she wishes to do so' (Carens, 2002, p. 109). This argument rests on a claim about how living in a society over time invariably establishes a person as a full member of that society, and a claim about the moral priority of civil society in relation to political society. I shall deal with each in turn.

Carens states that 'living in a society makes a person a member of civil society'. He considers it inevitable that by living within a society a person becomes involved in a 'dense network of social associations and acquires interests and identities tied up with other members of the society' (2002, p. 109). Over time these interests and identities are extended and deepened, so that a person becomes imbricated with other persons living in the society. This creates a strong moral claim to the full set of rights associated with citizenship. Although many of these rights (especially civil and social rights) are attained through denizenship, the core political rights remain by and large the preserve of citizens. It is only by having *this* political status that a person is treated as a moral equal and given the full means to secure her or his interests and identities. As Carens writes, 'legal citizenship offers one important means by which those interests and identities can be protected and expressed. For many people it will seem an essential means' (2002, p. 109). Thus an extended period of residence establishes a person's full social membership, which gives them a moral claim to political membership.

If we accept the 'liberal democratic notion that the state exists for the sake of members of society, and that the fundamental interests of some members should not be sacrificed even if a majority would find that to their advantage' then we cannot resist the moral claim of permanent residents to full citizenship. Such a claim 'cannot depend on the state's own categories and practices' but 'depends instead on the social facts' (2002, p. 110). Carens uses the example of Turkish communities in Germany to illustrate the injustice of denying full political membership to

people who have spent most of their lives living in a country. These people are 'so obviously members of German civil society' that to exclude them from political society is morally objectionable (2002, p. 110).

An extended period of residence is therefore a legitimate requirement for naturalization because it establishes a person's moral claim to citizenship. But residence is all that can be required. None of the other demands that liberal states currently make of naturalizing citizens, including renunciation of previous citizenship, language proficiency, or tests of cultural, historical or civic knowledge, are legitimate. The least controversial claim here is that dual nationality should be allowed. Few liberals see this as a fundamental problem, and the questions of loyalty and allegiance that dual nationality raise are rarely considered to be intractable (see Hansen and Weil, 2002). It is the rejection of tests for knowledge and language proficiency that are more radical. Whilst Carens does not think the imposition of naturalization tests to be a 'serious injustice' they are, he claims, undesirable. Such tests are not very good at testing civic competence, much less acculturation, and are bound to have class and cultural biases. Most controversially, Carens argues that someone who has functioned in a society for an extended period of time, but not learned the official language, 'should be presumed capable also of participating in the political process' (2002, p. 111).

In addition to Carens's liberal justice perspective, there is a second argument in favour of easy naturalization based on a fundamental democratic principle.[6] In its simplest form, this principle states that those who are subject to laws should have the ability to contribute to their making. In representative democracy this translates into the right to vote in national (as well as local and regional) elections. From this democratic ideal, a powerful case can be made that every person living permanently within a sovereign state is entitled to full voting rights.

This can be elaborated in terms of either territorial inclusion or affected interests (Bauböck, 2005, p. 686). The territorial inclusion variant conceives of a democratic polity as a community of political equals, subject to the same laws and with an equal right of participation in the making of those laws; the affected interests variant holds that policies that affect all should be approved by all. Since laws affect non-citizen residents as much as citizens there are no legitimate grounds on which the former can be excluded from democratic decision making while the latter are included (see Shapiro, 2003a). On either reading of this democratic fundament, excluding permanent residents from democratic participation on the grounds that they do not have formal citizenship

status amounts to a kind of political tyranny: such people are subject to laws made by representative politicians over whom they have no formal influence.

To avoid tyranny, access to citizenship (and the national voting rights that are almost universally reserved for citizens) should be automatic after a given period. This response is argued for by Ruth Rubio-Marin in her book *Immigration as a Democratic Challenge* (2000) and, interestingly enough, by Michael Walzer in his *Spheres of Justice* (1983). Walzer, who is better known for his communitarian argument that states should have wide discretion over who they admit to their sovereign territory, nevertheless insists that once immigrants are admitted they cannot be excluded from citizenship. As he puts it, naturalization 'is entirely constrained' by morality: admitting migrants as permanent residents without giving them access to citizenship amounts to political tyranny (Walzer, 1983, pp. 52–61).

Both the liberal justice and democratic arguments in favour of easy naturalization have considerable moral weight. Carens's argument from social membership and the democratic argument from territorial inclusion provide powerful support for the acquisition of citizenship after a relatively short period of residence within a country. It should be immediately obvious, however, that the implications of these arguments are at odds with the practices of many liberal states as outlined above, something that Carens himself acknowledges. Even self-described countries of immigration with a tradition of naturalization as a nation-building tool impose more restrictions than Carens allows, and his central proposal that citizenship should be accessible to those who have lived in a country for 5 years without further requirements is radically at odds with the current direction in which European states are heading. In particular, the European trend towards language and naturalization tests (something already well established in the classic countries of immigration) is in conflict with the prescriptions that issue from the liberal minimalist view. What normative justifications might be available for such practices?

Citizenship and nation

Support for more extensive naturalization requirements is often grounded in nationalist assumptions. Of course, nationalism comes in many guises (e.g., the well-worn distinction between 'civic' and 'ethnic' nationalism), but nationalists typically hold that a shared sense of national identity is essential to the successful functioning of a modern

state (Kymlicka, 2001; Miller, 1995, 2000; Scruton, 1990, 2004; Tamir, 1993). National identity underpins political legitimacy, motivates democratic participation, and facilitates the pursuit of social justice. For conservative nationalist Roger Scruton, states cannot be founded on purely political values, but must be based on shared social values, which are given to us by our national culture (Scruton, 1990; see also Scruton, 2004). As Ronald Beiner puts it, for Scruton 'what ultimately sustains the liberal state is not a sense of *political* membership in the state but the *social* loyalties and allegiances that define nationhood, and therefore that citizenship as a political concept is ultimately parasitic upon nationhood as a social concept' (Beiner, 2004, p. 25).

It follows from this prioritization of nationhood over citizenship that applicants for the latter status should first demonstrate that they have assimilated to the 'national idea', which consists of the nation's language, history and culture. Admitting persons as citizens who have not assimilated to the national idea undermines the ties that bind a political community, and ultimately leads to the dissolution of the state. In Scruton's words, 'until sustained by a national idea . . . the liberal state is, I believe, a solvent of unity and therefore contains the seeds of its own destruction' (1990, p. 312). The specific implications of this for naturalization policies are not spelled out, but would clearly require acquisition of the official language, knowledge of a nation's history, and some level of acculturation. As I mentioned above, arguments of this kind are in the ascendancy across Europe, often being used to justify language requirements and naturalization tests. What should be said about this?

First of all, note that although the conclusion of the nationalist approach is clearly at odds with Carens's recommendations, the logic of the two arguments is not altogether different. Both Carens and Scruton agree that the social is morally prior to the political. They also agree that the political status of citizenship should be accessible only to those who are full members of society. The disagreement is over the interpretation of social membership: what is it that establishes a person's belonging? For Carens, anyone who has lived in a society for an extended period of time is a *de facto* member; Scruton insists that the person must additionally have been acculturated in national values. Demonstration of acculturation (i.e., the social and cultural trappings of membership) then appears as a legitimate requirement for naturalization (admission to the political community).

Despite this structural similarity, there are nevertheless several good reasons why liberals should reject the nationalist approach to

naturalization. First, there is the familiar idea that liberal states cannot legitimately promote or impose a specific conception of the good. To the extent that the 'national idea' is associated with a particular conception of the good (e.g., a Christian world view) any requirement that applicants for naturalization must assimilate to the national culture veers dangerously towards a violation of this core liberal principle.

A second reason for rejecting the nationalist case is more empirical in nature: simply, *is* there an identifiable national culture to which naturalizing citizens could be expected to assimilate? Liberal states tend to be diverse states, characterized by what Rawls terms 'reasonable pluralism' (1993, pp. 63–4), and it is not at all clear that a distinct and shared national culture exists in any meaningful way. There may be a *majority* culture, but it is difficult to identify a national story or identity that all citizens, let alone all residents, would agree to. Attempts to pin down national identity by governments are invariably contested and frequently derided (one thinks of British Prime Minister John Major's attempt to envision Englishness in terms of warm beer, cricket and nuns cycling to church). And the kinds of historical knowledge included in tests of national culture, such as in the German *Länder* of Baden-Wurttemberg and Hessen, would be news to many native-born citizens. In short, in pluralist societies there simply isn't a consensus about national identity.

A third objection to the nationalist argument for assimilation is more practical in nature. If assimilation to the national culture is to be made a condition of naturalization it must in some relevant sense be assessable. But it is far from obvious that this is the case. As Carens (1998, pp. 141–2) claims, naturalization exams that test civic knowledge do not work very well regardless of the questions they ask, and the same can be said *a fortiori* of cultural knowledge tests. At best the test will assess the applicant's ability to memorize a number of discrete facts, but it will reveal little about her acculturation on any fundamental level. Moreover, formal tests are likely to be biased against less educated applicants and those from lower socio-economic classes, which suggests that education rather than acculturation will be a surer route to success. In sum, it is highly doubtful whether cultural assimilation to the 'national idea' can be tested by examination, and it is at least unclear what other measures could be developed.

In any case, it seems that an argument for cultural assimilation based on a concern for the cohesion of the nation fails on its own terms. This is because the postulated need for a demonstration of cultural assimilation at the point of naturalization (through tests for example) implies

the existence of cultural diversity in society. When migrants apply for naturalization (full membership of the polity) they are typically already resident within the national territory, and are thereby members of society. To the extent that they are culturally different they have therefore already changed the cultural character of the nation. If the real concern of nationalists is the maintenance of the nation as a distinct community of character, then the site of control should be the admission of culturally distinct migrants into the territory rather than membership of the political community.

In other words, the nationalist concern for cultural identity and cohesion is better served by maintaining the communities of character at the physical borders of the nation state (i.e., immigration controls) rather than the conceptual borders of the political community (i.e., naturalization policies). This is indeed the position of a nationalist such as David Miller (2005) or a communitarian such as Michael Walzer (1983). In the Netherlands, which has recently imposed a test on 'Dutch culture' for would-be immigrants, we see something like this logic at work. Under the new policy, obtaining a visa is conditional upon a successful result in a multiple-choice test which includes questions on attitudes towards homosexuality and female circumcision. Whether *this* is an ethically defensible policy is questionable, but it is more consistent with the nationalist agenda.

Citizenship, political virtues, and the liberal state

For the reasons outlined above, liberals should reject naturalization policies that require applicants to assimilate to a national culture, whatever that may be. Does this mean that they should accept the minimalist argument for unconditional naturalization after a certain length of residence? I would like to suggest that while liberal democratic arguments do provide compelling reasons for making naturalization easy, a liberal case can be made for some requirements beyond residence.

Over the last 20 years or so, liberal theories of citizenship have paid increasing attention to what might be described as the 'demands of citizenship' (McKinnon and Hampsher-Monk, 2000). This shift, partly in response to civic republican and communitarian critiques of liberalism (see e.g. Pettit, 1997; Sandel, 1984), has placed citizenship at the heart of liberal theory. Many liberal theorists now argue for the importance of the qualities and conditions that motivate and enable effective citizenship (Philp, 2000), and liberal states have shown a renewed interest in citizenship (Joppke and Morawska, 2003). Indeed, there is a growing

recognition that the success of liberal government and the pursuit of social justice depend as much upon the dispositions of citizens as on free institutions (Patten, 2000, p. 203).

For example, in his later writings, John Rawls emphasized the importance of what he called 'the cooperative virtues of political life'. These cooperative virtues 'underwrite the willingness if not the desire to cooperate with others on terms that all can publicly accept as fair on a footing of equality and mutual respect' (Rawls, 2001, pp. 116–7). Without them, liberal justice is on shaky ground. In a similar vein, Stephen Macedo has argued that successful liberal states need virtuous citizens.[7] While liberal states can possibly get by without a citizenry motivated to respect the rights of others, they certainly cannot thrive: 'liberal values', he says, 'do not need to be in place for us to say of a society that liberal justice is "in force" there, and neither the virtues nor the acts which would mark someone as possessing them are required by law'. However, 'support for liberal justice is strained in societies comprised of large numbers of bigots who do not respect the dignity of minorities, or puritanical zealots who would abuse the right to privacy of other persons' (Macedo, 1990, p. 266).

What are these virtues? And how are they cultivated? For Rawls, they are 'the virtues of reasonableness and a sense of fairness, and of a spirit of compromise and a readiness to meet others halfway' (Rawls, 2001, p. 116). For Macedo, they include 'tolerance and respect for the rights of others, self-control, reflectiveness, self-criticism, moderation, and a reasonable degree of engagement in the activities of citizenship' (1990, p. 2); also 'broad sympathies, self-critical reflectiveness, a willingness to experiment, to try and to accept new things, self-control and active, autonomous self-development, an appreciation of inherited social ideals, an attachment and even an altruistic regard for one's fellow liberal citizens' (1990, p. 272).

While there is clearly room for disagreement about the specifics, the broader point advanced by both theorists is that stable and successful liberal societies rely upon a citizenry that endorses the public values of a pluralistic and tolerant political culture. Institutions alone cannot make for a free and fair society.

Neither Rawls's cooperative political virtues nor Macedo's liberal virtues are things that can be coerced or demanded by a liberal state. They are ideals of good citizenship rather than enforceable duties. Nevertheless, liberal states can (and do) provide forums and institutions in which political virtues are cultivated. For native-born citizens, this process begins in a state's public schools (at least when they are

well-functioning), where future citizens are educated and socialized in the values that underpin liberal democracy, through specific citizenship classes and the wider curricula (see Callan, 1997). Rawls notes the importance of children's education in the development of civic competence and cooperative virtues: the education of children as future citizens in a liberal state should include civic skills, 'such things as knowledge of their constitutional and civic rights', and should 'encourage the political virtues so that they want to honor the fair terms of social cooperation in their relations with the rest of society' (Rawls, 2001, p. 156).

Political education continues outside and beyond the school, through participation in political institutions and civil society. In Rawls's well-ordered society, a liberal state's institutions and public political culture are organized so as to encourage the development of cooperative virtues into adulthood. This is an ongoing process. Cooperative political virtues are a kind of political capital; like other kinds of capital they can depreciate and need constant renewal, they 'are built up slowly over time and depend not only on institutions (themselves slowly built up), but also on citizens' experience as a whole and their public knowledge of the past' (Rawls, 2001, p. 118). Thus liberal institutions are at once sustained by, and productive of, political virtues.

Beyond liberal minimalism in naturalization policies

What does this account of liberal citizenship imply for naturalization policies? Is naturalization – the policies, practices and procedures that determine access to citizenship – a proper site for the institutionalization of liberal values and cooperative political virtues?

I begin from an assumption that the liberal minimalist and democratic arguments for easy naturalization have considerable force: permanent residents have a powerful moral claim for inclusion as full members of the political community, which only grows the longer they live in a society. For the reasons discussed above, acquisition of citizenship is encouraged and assumed to be the norm for permanent residents. It is unacceptable for a subset of residents to be permanently excluded from full membership of the polity, for reasons of liberal justice and democratic representation. Without an entitlement to acquire citizenship, permanent residents are not treated as political equals and they are ruled tyrannically. It follows from this that naturalization procedures should be widely publicized and bureaucratic obstacles to naturalization low. The ideal of liberal citizenship is undermined if potential applicants are unaware of the option to naturalize or discouraged from starting

or completing the process as a result of complex, time-consuming, or costly bureaucratic procedures.[8] Broadly speaking, the opportunity costs of naturalization should be as low as possible.

At the same time, since naturalization is the process by which a foreign resident becomes a citizen, it is surely reasonable to expect that applicants demonstrate some understanding of, and commitment to, the rights and duties that come along with citizenship. Citizenship is, after all, a status; as a procedure that regulates access to this status, naturalization should embody its defining features. When applying for a status, office or position, we generally think it reasonable that we are required to demonstrate some understanding of what that status entails, and some commitment to its constitutive values. On this view, it is quite legitimate for liberal states to institutionalize the formal rights and responsibilities of citizenship and perhaps the ideals of liberal citizenship in their naturalization policies. Indeed, if the meaning of citizenship is *not* institutionalized here, it is difficult to see where else it should be. This is not to view naturalization as a form of social engineering. It would be both naïve and patronizing to think that naturalization policies can produce virtuous citizens; but it is neither naïve nor patronizing to require applicants for citizenship to show their commitment to the institutions and ideals that partly define that status.

Liberal states have to steer a course between two conflicting imperatives when designing their naturalization policies: between enabling (and even encouraging) permanent residents to naturalize on the one hand; and giving some content to citizenship by institutionalizing its defining features on the other. In the remainder of the chapter, I consider the implications of this dilemma by discussing the four requirements outlined at the start of the paper: residency, dual nationality, language proficiency, and naturalization tests.

The requirement for a period of minimum residency should be, and is, uncontroversial. Both liberals and nationalists agree that the social is in some sense prior to the political; thus a person must first establish her or his membership of society to have a claim on political membership, and this is something that can only occur over time. Just how long one has to live within a society in order to become a part of it is debatable, but it is surely more than a matter of weeks or months. Nevertheless, the pressing arguments from justice and democracy imply that this period should as short as possible (up to 5 years say), and certainly shorter than the lengthy periods required in some European countries such as Austria or Switzerland.

Dual nationality should also be uncontroversial from a liberal perspective. A citizen can be fully committed to liberal justice, tolerant of others, and entirely civic minded whilst holding membership in another state. As Carens argues, the question of conflicting loyalties is easily exaggerated and unlikely to be affected by law in any case: 'if dual loyalties are a problem – and I think they are rarely a real problem – prohibitions of dual citizenship will do little to resolve them. People's feelings and identities may well remain divided, whatever legal status they choose' (Carens, 1998, p. 146). Given the other benefits associated with acceptance of dual nationality (e.g., it encourages naturalization, facilitates remittances, enables potential return migration), liberal states should not prohibit it.

It is with regard to the other two requirements – language proficiency and knowledge of the receiving society – that the account developed here departs from the liberal minimalist position. Carens argues that someone who has functioned in a society for an extended period of time, but not learned the official language, 'should be presumed capable also of participating in the political process' (Carens, 2002, p. 111). It is indeed possible in pluralistic societies to function without necessarily learning the official language(s) of the host country. Especially in the polyglot global cities that exist in most liberal democratic states, a person can utilize ethnic networks to find work, social support and a sense of belonging without becoming proficient in the official language of the state. But it is difficult to see how a person can participate in politics, especially at the national level, without a facility in the language of political debate. Moreover, the ability to develop cooperative political virtues (such as the ability to engage with other citizens with whom one disagrees) presupposes an ability to speak and understand the predominant language of fellow citizens. Thus a language requirement can be justified not by reference to cultural assimilation (although clearly language is an important part of national culture) but rather the demands of citizenship. For these reasons, the requirement for language proficiency that is so common to liberal democratic states' naturalization policies seems not only legitimate, but desirable.

The desirability of naturalization tests is a more vexed issue. First, and contra nationalists, if we understand the liberal citizenship in terms of *political* values and virtues, then deep cultural knowledge of the receiving society should not be a condition for naturalization. However, and contra liberal minimalists, some knowledge of liberal values and civic skills are consistent with, indeed are supportive of, liberal justice and democracy. Naturalization tests can assess an applicant's understanding

of citizenship rights and duties, and more controversially they can symbolize the ideals of citizenship in a liberal state. At the least, it is hard to see where the injustice lies in asking applicants for citizenship to demonstrate some understanding of the status to which they aspire.

It might be argued that knowledge of certain historical events or cultural practices is in fact essential to a given political community and therefore questions about these events or practices are legitimate components of naturalization tests. In some cases this may be true – for example, it could plausibly be argued that some knowledge of Nazism or reunification is essential to effective citizenship in contemporary Germany – but in many cases it is a spurious cover for cultural prejudice. For example, it is hardly necessary that new German citizens know who invented the printing press or who composed the *Ode to Joy* in order to engage with other citizens in political dialogue. Although there is undoubtedly a grey area here, the general presumption in tests should be towards civic knowledge over the particularities of national history and culture; the latter should be included only if a powerful case can be made that they are essential to effective citizenship.

Following Carens, it might be objected that just as cultural knowledge tests are a poor guide to acculturation, so civic knowledge tests are a poor guide to civic mindedness. There is undoubtedly some truth to this objection. Naturalization tests are probably better at assessing applicants' factual recall than their prospects as future citizens. Certainly, it is hard to imagine how Rawls's cooperative political virtues could be assessed by means of a test. Nevertheless, by incorporating the political knowledge and values that motivate and enable citizens to cooperate as equals, naturalization tests can at the very least represent an ideal of liberal citizenship.

A second objection is that the use of tests conflicts with the voluntarism of liberal citizenship and is to that extent illiberal. This objection is less well founded. Political education is hardly inimical to liberal democracy. After all, native-born citizens are educated in liberal values through compulsory schooling. It is true that for native-born citizens the acquisition of a full set of rights at the age of maturity is not conditional upon passing a test. However, the differential treatment here reflects the moral asymmetry between removing a person's original citizenship, which threatens the legal and moral void of statelessness, and applying for a new citizenship status, which typically does not. Assuming applicants for naturalization already have another citizenship status, setting requirements for the acquisition of a second citizenship does not threaten their fundamental interests.

Conclusion

In this chapter, I have argued that there is a liberal 'third way' between the minimalist and nationalist approaches to naturalization. If we accept – as many theorists now do – that the stability of liberal institutions and the pursuit of social justice rest partly upon the dispositions and capacities of citizens, then there are good reasons to make some naturalization requirements beyond residency. Long-term permanent residents have a powerful moral case for inclusion within the political community. But so long as policies are designed in a way that does not present a serious obstacle or disincentive to naturalization, language proficiency and naturalization tests can, and perhaps should, be endorsed by liberals.

Notes

1. The legitimacy of special privileges, for say spouses, relatives and co-ethnics, raises complex normative issues, which are likely to require some context specificity. In this chapter I proceed at a level of generality that excludes such questions.
2. These four criteria are not exhaustive but they are the main requirements typically made of naturalizing citizens around which political debate has focused in recent years.
3. This section draws heavily on data collected by the NATAC project on acquisition of nationality in EU member states. See Bauböck et al. (2006).
4. See http://www.citizenship.gov.au/test/index.htm accessed on December 17, 2007.
5. See http://www.uscis.gov/files/nativedocuments/Flashcard_questions.pdf accessed on December 17, 2007.
6. Carens alludes to this but does not elaborate it at any length (Carens, 2002, p. 110).
7. See also Richard Dagger (1997) on civic virtues and republican liberalism. From a different perspective, Ronald Beiner (2004) argues for what he calls 'civicism'.
8. For example, in the United States, where there is a public norm in favour of naturalization, it is reported that as many as one-third of Latino applicants begin but do not complete the process (DeSipio and Pachon cited in Pickus, 1998, p. 126).

6

Republican Requirements for Access to Citizenship

Iseult Honohan

Introduction

What are legitimate conditions for naturalization from a republican perspective? I argue that if citizenship is understood as membership in a self-governing community, some boundaries are justified, but the conditions for membership need not be as stringent as those currently becoming the norm in many Western states. Republican citizenship is quite demanding: it requires a capacity to communicate, an awareness of interdependence among citizens, a sense of responsibility to the wider society and an inclination to engage deliberatively with others in public debate. Thus, on a republican view, the state may promote these through civic education for all citizens. Nonetheless, on this conception, citizenship may be acquired almost automatically by dint of long-term residence. The state may require participation in language classes and in certain practical political exercises for applicants for citizenship. But it does not follow that applicants should be required to achieve particular fixed standards in tests of knowledge, skills or values. Few conditions not required of native-born citizens should be required of those naturalizing, and these should be more a matter of participation than of skills or identity.

Citizenship is a notoriously complex and contested concept. It has at least three principal dimensions – legal status, with its rights and obligations; activity; and membership. It is arguably legal status, the first of these dimensions, which is at stake in the process of naturalization, but membership of a community is also involved. It is this on which recent debates on conditions for naturalization have focused, with an emphasis on acculturation, with or without language or other tests. Moreover, this membership has been increasingly understood as conditional on

a sense of identity of belonging that is not intrinsic to all forms of membership.

These three dimensions are prioritized and interconnected in different ways in different conceptions of citizenship. At the risk of oversimplifying, we might say that the liberal conception focuses primarily on legal status, while the communitarian conception prioritizes community membership, and the republican conception prioritizes the activity of citizenship. On this view, citizenship may be seen as 'strong' – involving action and interaction between citizens – rather than 'thick' – involving deep commonalities among them.

But from a republican perspective the fundamental basis of citizenship is the stake that comes from subjection to an authority that citizens collectively may potentially bring to account, and the possibility of exercising some degree of self-government.[1] The legal status of citizenship emphasized by liberals partly addresses this predicament. But republicans emphasize that citizenship also entails powers and responsibilities that cannot be defined entirely in terms of legal or binding requirements, but depend on the broader attitudes and inclinations of citizens.

Why and how is citizenship bounded?

Citizenship is necessarily a bounded category. It may be argued that all restrictive forms of membership are normatively undesirable. But, in response to criticisms of specific citizenship as unjustifiably particularist, there are good normative arguments for the persistence of bounded polities. Apart from a principled fear of the potential tyranny of a single world government, at any time the locus of possibility of realizing any degree of freedom and self-government will be determined by the interconnections arising from factors such as geographical proximity, historical interdependencies and common environmental and developmental issues. Citizenship is bounded because this is the only way in which politically guaranteed freedom can be constructed. As Benhabib puts it, 'the logic of democratic representation . . . requires closure for the sake of maintaining democratic legitimacy' (Benhabib, 2004, p. 220). Even if many rights arguably can and should be guaranteed without reference to a specific population, that of collective self-government cannot, and world citizenship in this sense is not yet available to us. Moreover, bounded states may be seen as facilitating experiments in collective living, adopting alternative approaches to, for example, welfare, education or health-care provision that may suit specific circumstances

or be generalizable approaches from which others can learn. It should be stressed that this argument for specific units of self-government does not entail further arguments that the nation is the necessary basis of the bounded state, that no development towards larger-scale or multilevel government is justified or required, nor that all responsibilities of justice are delimited by state boundaries. While a distinction between citizens and non-citizens may be legitimate, the way in which non-citizens are treated is subject to considerations of justice and human rights standards, and certain ways of allocating particular citizenship may be more justified than others.

Thus citizenship is bounded on the basis of the need for 'democratic closure', the need to be able to identify those who are collectively engaged in self-government at any time. This is, however, distinct from the bounds being determined by ethnicity, common culture or shared values, or even public culture. But it is more than a matter of adherence to liberal democratic values that can be transferred anywhere, or certain kinds of portable membership.

Republican citizenship is also demanding. It requires a certain commitment of citizens to participation in collective self-government and support for the common good, which are more demanding than the legal duties or thinner virtues associated with the liberal conception of citizenship.

It has been argued that republican citizenship rests on an overdemanding and unrealistic requirement of participation, a holistic and oppressive account of the common good and a moralistic account of virtuous citizenship. It is true that many historic accounts of republicanism displayed these features. But contemporary accounts of republicanism have shown that it can be articulated in a way that is not subject to these strictures. While I cannot deal fully with these criticisms here, they may be addressed briefly as follows.

Republicanism does emphasize active citizenship as participation in self- government, but does not necessarily identify participation in politics as the ultimate value in human life. Rather participation has intrinsic as well as instrumental value. This does not lay down a requirement of any particular level of constant participation for citizens.[2]

The common good and solidarity of citizens have often been defined in terms of thick moral purposes and cultural identity, but citizens in modern societies cannot share a common good in this sense. Yet citizens are mutually vulnerable, and share a common predicament and something like a common fate or future insofar as they are related in multiple interdependencies in practices bounded by the state. Rather

than there being a single authoritative account of the common good, what constitutes it in different instances always has to be determined through deliberation among different perspectives, and is always open to change. In this context solidarity among citizens may be understood as a commitment to those with whom they may realize or fail to realize the possibility of jointly exercising some collective control over their lives. This solidarity is distinct from a sense of cultural identity. It is grounded in a reflective acceptance of certain obligations and in practical engagement.

From this perspective, citizens need what is variously called public spirit or civic virtue – an inclination to think of the common good – because realizing freedom and the common good depend on their mutual commitment and support. Under conditions of moral and cultural diversity, the virtues of solidarity are a willingness to acknowledge and assume the responsibilities entailed by interdependence; self-restraint in pursuing individual or sectional interests rather than the common good; and the inclination to engage open-mindedly with the viewpoints of others when participating in discussion in the public realm. These are specifically political virtues, which do not prescribe a comprehensive morality or vision of the good life.

So while requiring less than a total transformation of individuals, nonetheless, this involves quite demanding dispositions that do not necessarily come naturally and will not be realized equally by all. Citizens are not born, but made. This is the basis for the republican emphasis on education for citizenship in the broadest sense – in knowledge, skills and dispositions. But though these can be promoted, they cannot be required of citizens, and we must expect that different kinds and levels of civic virtue will be forthcoming.[3]

First, encouraging responsibility among citizens requires that they expand their perceptions. They need to become aware of the multiply reiterated dependencies between themselves and other citizens. Today this means countering assumptions of individual self-sufficiency and misconceptions about the impact of government and the effects of non-participation. Thus citizens (whether privileged or disadvantaged) need to become aware of the economic and social networks they live in. This includes the social conditions of others, the effects of differences of gender, abilities, culture or religion, and social material and power inequalities on the life chances and effective equality of citizens.

Second, citizens will ideally develop civic self-restraint. This is less a matter of learning to defer gratification than of giving more weight to common interest than prevails in the contemporary culture of

individualism. But it may be understood as an expansion or re-identification of the self or individual interests in a broader sense, rather than either as self-denial, or a calculation of the balance of interests. Those who recognize interdependence (the first dimension) are more likely to accept, for example, redistributive measures that maintain political equality, individual costs incurred in taking time to recycle, limiting their own pursuit of material wealth, engaging in activities of care and giving time and energy to political concerns ranging from voting and jury service, to attending hearings, right up to serving in office. Active self-restraint implies an orientation to challenge infringements not only of one's own rights, but also those of others. This commitment is primarily to be understood not as an inclination to put fellow citizens ahead of others, but as a restraint in putting individual and sectional interests ahead of common and public concerns.

The third dimension is deliberative engagement – the ability to form autonomous judgements, consider other points of view, and deliberate as a member of a wider society. This requires developing habits of voice, responsibility in decision making and establishing respect and trust, rather than simply tolerance. This means that when people take specific political stands, they should be prepared to engage and deliberate with others who have other views and come from different perspectives.

Conceptions of citizenship, citizenship laws and naturalization

What does this imply for conditions for access to citizenship?

It has been argued that 'in all cases the nationality law expresses and consecrates the conception of the nation and reinforces the homogeneity of national populations' (Schnapper, 1998, p. 107). If this were the case it would not be surprising if naturalization did always require evidence of cultural and ideological convergence. But, while citizenship laws may express a conception of the nation or political community, such membership may be conceived of in ways that are more and less inclusive and open to admitting diverse members. While citizenship laws are by definition necessarily exclusive, since they regulate particular membership, criteria for inclusion and exclusion may be more or less justifiable. These issues have considerable significance now when, on the one hand, the justification for any kind of bounded citizenship has been challenged, and, on the other, more stringent conditions of integration have been proposed for naturalization as necessary to sustain political and social solidarity in a number of Western states.

In this section I distinguish some ideal conceptions of citizenship and the kinds of citizenship laws consistent with them. These reflect some more of the complexity in views of citizenship in this context than the initial simple distinction into liberal, communitarian and republican accounts. I label these conceptions ethnic nationality, value community, liberal nationality, civic voluntarism and republicanism. Of course in practice citizenship regimes rarely if ever correspond exactly to one or other of these categories. But I hope that this may help to clarify the implications of conceptions of citizenship, and throw some light on the varying combinations found in actual citizenship regimes. While I briefly outline the dimensions of citizenship laws in general, the main focus here is on the implications for naturalization.[4]

1. To the extent that a state is based on ethnic nationality it will limit or give preference in admission to citizenship to co-nationals, ethnically defined. This will underpin laws through which citizenship is acquired principally on the basis of descent (*jus sanguinis*). Naturalization will be extremely difficult, and may be granted (if at all) after long periods of residence, on meeting stringent requirements of cultural integration and loyalty, and subject to discretion. Dual citizenship is not consistent with this model. On this view, it is justified to discriminate among applicants on ethnic or racial lines. Examples include the 'White Australia' policy that prevailed in the mid-20th century, and German citizenship policies (up to 2000) that granted citizenship to those of German descent, even without cultural connections. In Germany (up to 1992) naturalization required 10 years' residence, and demanding conditions of cultural integration that were subject to extensive official discretion. Such citizenship laws have the effect of including or excluding people from membership solely on the basis of descent, and, in the context of immigration, lead to large numbers of people living (even if born) in a country without being members of the political community. The obverse of this is that these laws include as members descendants of emigrants who may have a minimal stake or commitment to the political community.
2. On a second model, 'value community', citizens are members of a community of shared, pre-political, cultural values or ways of life, rather than ethnicity. Citizenship is bounded because 'the distinctiveness of groups depends upon closure, and without it, cannot be conceived as a stable feature of human life' (Walzer, 1983, p. 39). Citizenship laws will be a matter for the community to determine.[5]

While it is a matter of choice by the community whom to accept and whom to reject, those who have been admitted and have become long-term residents should be granted citizenship through naturalization, though certain conditions may be required, emphasizing either linguistic and cultural assimilation, or allegiance to community values. Naturalization will tend to require relinquishing previous citizenship; dual citizenship is regarded as incompatible with being a member of a closed and distinctive group.[6] Limits on dual citizenship in Austria, Denmark, the United States and Germany today, in Canada up to 1977 and in Australia to 2002, and the current requirement of the oath of loyalty to Australia and its people could be interpreted as reflecting this conception. But, even if not as exclusive as the citizenship laws flowing from ethnic nationality, these provisions imply a strong degree of cultural assimilation, and in any case impose heavy requirements of belonging to a single community that may well fail to accommodate the plural identities and commitments that members may legitimately bear.

3. On a third model, 'liberal nationality', what citizens share, is a public culture, history or institutional practices rather than pre-political culture or values. Citizenship is bounded because of the inherently limited possibilities of extending such a binding political identity (Miller, 1995, p. 188; 2000, pp. 88–89). This allows for greater diversity of culture and values among citizens than either of the two previous models. Here citizenship can be awarded by *jus soli* as long as there is a guarantee that citizens will be socialized into the public culture. Thus French law makes children born in France to immigrant parents citizens automatically at age 18 if they have lived continuously in France for five years.[7] *Jus sanguinis* citizenship, by contrast, is quite limited, since those who live abroad are likely to lose their connections with developments in the public culture and politics more quickly than those with the wider culture. Such a liberal nationality does not discriminate on ethnic or cultural lines among candidates for citizenship by naturalization, but requires commitment to the state and competence in the public culture. The conditions for adult naturalization may include language and a grasp of history, but in this case as evidence of participation in the public culture. On this view also, citizenship may be understood as an essentially singular membership of a sovereign body, but dual citizenship is more easily accommodated than with the two previous views. Elements of such a view can be found in the oath of loyalty to the country's democratic beliefs and laws in the current procedures for naturalization in

Australia, and the affirmation of intention to observe the laws and fulfil the duties of a citizen in Canada.

While more open to diversity than either of the preceding conceptions, and susceptible to more and less demanding interpretations and implementations, the way that this view grants weight to the existing public culture may not be fully consistent with the equal treatment of all citizens. Moreover, the further one tries to specify what determines the public culture, the more it becomes evident that it is difficult to separate public and private cultures in the way that some liberal nationalists hope.

The question is whether it is possible to envisage an alternative 'civic' conception of citizenship. This more contested conception will require more detailed discussion than those that have just been discussed.

4. One articulation of such a civic view that I will term 'civic voluntarist' implies that citizenship can or should be based primarily on choice, voluntary consent or forward-looking commitment to shared principles or constitutional structures.[8] This suggests that consent or adherence to liberal democratic principles is not only a necessary – but almost a sufficient – condition of civic citizenship. It might then be inappropriate to ascribe citizenship involuntarily either at birth, though *jus soli*, or automatically at majority. In contrast, naturalization may be extremely easy, once one has chosen to live in the country even after a short period, and dual nationality is not particularly problematic.[9]

   But adherence to certain principles is not what distinguishes citizens of different states. This reinforces the fact that political membership is not and cannot be a matter simply of rational commitment, but involves a stake in the society that comes with subjection to a common authority. Nor is it like membership of a club, in or out of which people can opt at will. Citizenship is inherently rooted in the fact of subjection to a particular common authority. It does not depend on sharing a common past or even on proximity alone, but neither is it based primarily on choice. Rather it is based on involuntarily sharing this common predicament, in which interdependent citizens are subject to, but also share at least the possibility of calling to account, a common government, and establishing some degree of self-determination of their common future.[10]
5. Thus a better formulation of a civic approach is a republican one that sees citizens as semi-voluntary members of a political community. In contrast to value community and liberal nationality, on this

view membership is not defined in terms of either pre-political or public culture. It has been argued that any idea of civic citizenship is illusory, as the content of any political community will always be embodied in some cultural form. Of course culture cannot be excluded, but the difference between the republican and the liberal nationality conceptions are that the existing culture and values are not given confirmed priority over those that emerge in exchanges among citizens. Any common cultural values emerge as the outcome of political interaction, provisionally embodied and open to change. In contrast to civic voluntarism, citizenship should be understood as specific to a particular context rooted in a common predicament.

This civic account has, like civic voluntarism, a distinctly prospective dimension. Thus *jus soli* ascription is justified in so far as it represents the current predicament of political interdependence and participation in a common future life. Birth in a state may be taken as a reasonable predictor of a shared future in the political community. But it is not infallible; thus, if granting citizenship at birth by *jus soli* is seen as arbitrary in certain cases where other connections with the state are absent, it may be reasonable to confirm the citizenship of those continue to live in the state as adults at some point.[11] Conversely, any element of *jus sanguinis*, reflecting the fact that citizens may leave without losing all contact, will be limited in duration and depend on continued interdependence and connection.

Republicanism and naturalization

In practice, liberal nationality tends to be in the ascendant in naturalization processes. While ascribed ethnicity has become less salient as a qualification for citizenship, the idea that integration into the public culture and shared political values are legitimate conditions of naturalization has become more widely advanced. And it is on these grounds that there has been increasing support for citizenship tests, not only of language and knowledge of the legal and political system, but also of social and political attitudes that do not distinguish very clearly between social and political culture and values.[12]

The republican account of citizenship favours relatively generous conditions of naturalization. Long-term residents become citizens on a virtually automatic basis, just as natives do – taking residence in the state as shorthand for interdependence and the sharing of a common future, in virtue of living, working, paying taxes and sending children to school, for example. Since the primary basis of citizenship is subjection

to a common authority, those who are long-term residents are already, in most cases, in the same predicament in this respect as citizens. Naturalization would be neither purely a matter of choice nor subject to state discretion. But as the nuances of politics are often one of the last aspects of a country's life to be fully grasped by a newcomer, a somewhat longer prior residence may be appropriate than a consent-based view might suggest. Any exact period is necessarily arbitrary, but 3–5 years, as in France, Canada and the United States, are more appropriate than either as short as 2 years or as long as 10 years.

On this view dual citizenship is not particularly problematic. Indeed the extension of citizenship to long-term residents tends to give rise to dual nationality. There can be real interdependencies with countries both of origin and of current residence, especially for someone who holds out hope of returning, or who supports relatives there. But dual citizenship of this kind will characteristically apply to individuals moving between countries, rather than being inherited by children over generations – the multiple identities of modern individuals must be seen as specific to each individual.

A civic republican conception of political membership, based on the possibility of self-government by interdependent citizens facing a common future, issues in citizenship laws that grant citizenship predominantly by *jus soli*, and on a more restricted basis by *jus sanguinis*, and allow relatively easy naturalization and dual nationality. Though bounded, such a conception is less exclusive and less demanding of homogeneity than ethnicity, shared value or liberal nationality. Because the citizenship laws that flow from it do not depend on a shared past or require cultural adjustment as a condition of membership, they are intrinsically more open to diversity.

Terms and conditions for naturalization

Apart from a significant period of residence, on what terms should long-term residents be granted citizenship?

It might be thought that because republican citizenship entails not only accepting legal rights and duties, but also developing the dispositions and engaging in the practice of citizenship, it should require stringent conditions for democratic attitudes and demonstrated loyalty to the state in which they are becoming full members.

There are several kinds of conditions for naturalization that have become standard, though none is universally required. These include length of residence, economic self-sufficiency, language abilities,

knowledge of history, 'good character' or absence of criminal conviction, taking an oath of loyalty and giving up previous citizenship. Apart from length of residence, these may be grouped into skills, cultural characteristics and moral qualities and attitudes.

It is important to distinguish between characteristics, capacities and attitudes that are desirable in citizens (and which it is legitimate for states to encourage) and fixed requirements or conditions that people must fulfil in order to qualify. Tests are appropriate only to be applied where there can reasonably be such fixed requirements. Tests have the advantage that, properly applied, they reduce the element of official discretion. On the other hand, if they are to fulfil this, it implies that they involve fixed standards or thresholds. From this perspective, pass–fail tests are less desirable than some process designed to promote those capacities and values desirable in citizens.[13]

For example, the importance of a capacity to communicate among citizens suggests that competence in a widely spoken public language should be encouraged. This justifies state provision or, at the very least, subsidy of language courses, and even a requirement that applicants should attend such classes. But it does not warrant the requirement that applicants should have to pass a test at any specific standard.

We saw earlier that the attitudes desirable in citizens are those of awareness of interdependence, civic-self restraint and inclination to deliberative engagement – and that these are part of a legitimate civic education. It has also been argued that these cannot be required as legal obligations, only encouraged and fostered among citizens as they grow up. We might look at what these imply for naturalizing citizens, recognizing that there will be differences to be addressed in considering these in the case of adults who are joining a society.

If citizens are to be aware of their mutual interdependence, it will be desirable to provide applicants for citizenship with knowledge of the structures of society and economy in their new country. But this is quite different from arguing that they need to learn about the national history and culture as a basis for a shared identity.[14] Again, reaching a fixed standard in a test is not the point here. (One of the standard exercises in the media is to demonstrate that native-born citizens regularly are unable to pass this kind of test.)[15]

The second element, a sense of broader responsibility and civic self-restraint are dispositions particularly established in a person's childhood and youth. But they are not attitudes that adhere to a specific society. And it may be argued that they are not characteristically particularly lacking in immigrants. Rather than being culturally specific to Western

liberal democracies, these resonate with the principles inherent in a wide range of cultural and religious perspectives that value social responsibility, commitment and self-restraint. There is no evidence that people who are public spirited in their countries of origin are less so when they travel abroad.

Finally, there is openness to deliberative engagement. This, it can be argued, is something which people from many cultures and all Western liberal democracies are all relatively deficient in and need to develop further. However, it may be more culturally specific than the sense of civic responsibility. Nonetheless, we can say that it is also found in strands of many traditions, and may be less counterintuitive for some minorities that the privatization of religious beliefs and cultural values. On this dimension, rather than any test of competence or attitudes, both the capacity to deliberate and the inclination to do so would be best fostered on a practical basis by, for example, making part of the process of naturalization, a participatory exercise comparable to a citizens' jury.[16]

Thus we see that the required conditions for naturalization may be quite limited. It should not be subject to the shared-value community conditions of a high level of official discretion, being deemed to be 'of good character', or swearing an oath of fidelity to the nation and loyalty to the State. At least it is not clear that an oath should be required that is not required of citizens by birth, since it is sharing a common authority with others rather than loyalty to it that is fundamental to citizenship. Likewise naturalization should not be conditional on the liberal nationality criteria of assimilation to the public culture. A knowledge of language, history or institutions may be encouraged as indicating the capacity for political interaction, rather than cultural assimilation. But more important may be the forward-looking intention to live in the country, rather than acquiring citizenship as either a badge of identity or a flag of convenience.[17]

Finally, there is the question of identity. Many arguments for more stringent conditions for naturalization rest on putative links between political commitment, trust, cultural integration and sense of shared identity. However, whether there is any necessary connection between cultural commonality and identity, or between a sense of identity and motivation to civic solidarity, is open to question. While citizens may share an identity, it is not clear that such an identity derives from cultural commonality, or that an explicit sense of shared identity is necessary or sufficient to elicit solidarity in practice.[18] Moreover, promoting cultural assimilation too strongly may not only be unjust, but also potentially counter-productive (Abizadeh, 2002). It may alienate

and reduce the engagement of members of minorities in broader social and political life. The kind of identity that is desirable may be more a product of interaction than something that can be required (or tested for). Naturalization may be better seen as a condition for, not depending on, a full sense of identity with the country of immigration. Thus I have deliberately not spoken directly in this chapter about 'patriotism', 'loyalty', 'social cohesion' or sense of belonging as conditions for citizenship.

The core of citizenship is more than status, but less than identity. What is essential to citizenship is the multiply reiterated interdependencies with others through subjection to common rule and the possibility of participation in self-government. Though republican citizenship is demanding, the qualities and attitudes that are desirable in citizens can only be encouraged, not required. Thus few conditions not required of native-born citizens should be required of long-term residents who are naturalizing, and these should be more a matter of engagement and participation than reaching particular levels of skills or sense of identity.

Notes

1. There are different emphases in contemporary republicanism. One strand emphasizes the promotion of non-domination, and another participation in self-government. While in this chapter I expand the second dimension, a parallel argument can be based on the non-domination account.
2. If participation is understood thus as having a say in shaping collective practices, rather than as the most essentially human activity, the distinction between instrumental and strong republicanism is less sharp than is often suggested (see Kymlicka, 2001, p. 297).
3. These points are more fully developed in Honohan (2005).
4. I apply these categories to issues of the attribution of citizenship at birth in Honohan (2007).
5. We can hazard that the balance of *jus soli* and *jus sanguinis* will depend on assumptions about whether membership of such a community is transmitted through socialization in the wider community (favouring *jus soli*) or through the family (favouring *jus sanguinis*).
6. Countries with a requirement that a single citizenship be held/that other citizenship be given up on naturalization included Sweden (up to 2001) and Finland (up to 2003). Since 2003, Dutch citizenship is, with certain exceptions, lost by those who take up another nationality.
7. Naturalization is also available by choice at age 13. This is in addition to the rule of 'double *jus soli*', whereby children born in France to French-born foreign parents become citizens at birth.
8. The idea that citizens may be united by adherence to common principles may be taken to support both membership of specific political communities and the possibility of cosmopolitan citizenship.

9. This would be consistent with making *jus soli* and *jus sanguinis* take second place to naturalization on open conditions of choice and residence, perhaps even shorter than the 2 years currently required in Australia.
10. I use the term 'future' rather than 'fate', as the latter tends to convey a more deterministic trajectory equivalent to a destiny laid down in the past.
11. Thus while Britain and Australia have modified *jus soli*, they do grant citizenship to a child born in the country who continues to live there for 10 years.
12. In addition there is also a trend towards wider acceptance of the idea that there can be an immigration track that does not lead to citizenship, in the new guest worker programmes favoured in the USA and some European countries.
13. The difficulty created by failure and the connotations of rejection by long-term residents must also be taken into account.
14. Cf. questions on, for example, literary figures and artists that featured in the Hesse citizenship test in 2005.
15. It is sometimes argued that it is unnecessary or demeaning to require attendance at language or citizenship courses by native English speakers or those from liberal democracies. But it seems arbitrarily discriminating to waive the requirement in such cases. Language may be a special case, where native speakers should be exempt; but if global differences in social and political practices justify providing information and requiring courses for any applicants, they do so for all. It cannot be assumed, for example, that an American who comes to live in Ireland, for example, necessarily absorbs the knowledge necessary for Irish citizenship any more readily than someone from a non-Western society.
16. There is evidence that participation in citizens' juries or deliberative polls increase participants' knowledge of and interest in the political process, openness to other positions and inclination to further participation.
17. There is no objection to citizenship ceremonies if they are taken to represent a symbolic passage into full citizenship.
18. As Laborde puts it, 'There seems to be no *necessary* connection between national-fellow-feeling and solidaristic attachments; what matters, more than a sense of nationality *per se*, is the right kind of public spirit and social ethos' (Laborde, 2002, p. 603).

7
Linguistic Competence and Citizenship Acquisition

Andrew Shorten

May existing members of a political community use the regulations governing access to citizenship to shape the linguistic identity of the life they share in common? Is it permissible that access to the advantages and opportunities of citizenship be conditional on linguistic proficiency? If so, is it justifiable? These questions have become increasingly pertinent for many liberal democratic societies, especially where the transformative effects of migration are widely perceived as a threat, or where linguistic differences are regarded as a significant barrier to full integration into the political community. Although the rules regulating citizenship acquisition are not the only means available to a political community that wants to influence the languages spoken inside its borders (for instance, a migration policy could discriminate on linguistic grounds, or economic incentives could be used to encourage language shift), they have increasingly been used for this purpose. For example, language tests are a well-established part of citizenship acquisition regulations in traditional immigrant societies such as Canada and the USA, and have been introduced or proposed in many of the nation states of Western Europe. Although language testing is not an impermissible form of discrimination, this chapter rejects two widespread arguments for making proficiency in a majority or official language a condition of citizenship acquisition (on the grounds of protecting linguistic or national distinctiveness, or maintaining healthy democratic institutions). Instead, it argues for a right to majority language learning, in order to secure for everyone equal access to democratic opportunity.

Immigration and cultural change

Immigration has transformative effects: for migrants themselves, the societies they leave behind, and the societies they enter. Some of the

economic implications of transnational migration are now widely studied, especially in terms of the impact upon labour markets, and the results of this work are gradually informing both normative analysis and public policy. Immigration also transforms cultural identities, and in much of Western Europe the cultural effects of immigration have been amongst the most controversial. Unsurprisingly, in this context it is almost always the ways in which immigration potentially transforms a host society that are regarded as critical, and the resulting political discourse is often volatile. In particular, wherever immigration policy is a matter of vibrant public contestation, one is likely to find the idea that multiculturalism threatens the integrity or cohesion of an existing national culture, and for that reason should be scaled back or even abandoned. One political consequence of this has been noted by Will Kymlicka, who – in this case writing about the United Kingdom – has criticized the government's 'painfully cautious' endorsement of multiculturalism, which assumes it to be 'apparently unthinkable' that 'native-born British citizens' could be expected to re-evaluate their own inherited identities, habits, practices, heroes, symbols or narratives in order to accommodate incoming migrants (Kymlicka, 2003, p. 205). In a similar vein, Bhikhu Parekh (2000a) has criticized the tendency to understand the transformative processes introduced by immigration as a one-way street, as something the incoming migrant should be expected to perform and that the host society should be insulated against.

Advocates of multiculturalism, like Parekh and Kymlicka, have also stressed a different facet of the transformative capacity of immigration, namely the ways in which it changes immigrants themselves. If preserving and passing on one's ancestral culture is an important and worthwhile human aspiration (because of the ways in which it supports individual dignity or self-respect), then migrants experiencing difficulties in realizing this good (perhaps because of additional costs they face, or the discrimination they suffer) may be entitled to public support from the host society (for instance, in the form of ethno-cultural or accommodation rights, or in state subsidies to sustain minority cultural practices). Importantly, if the ancestral cultural identity of an immigrant is something that both deserves and requires protection, then this may rule out the kinds of robust assimilation policies that have been advocated as a means to insulate host societies from the effects of cultural transformation.

Thus, there are at least two different ways in which the transformative capacity of immigration has been regarded as a 'threat', and respective protectionist policies designed to insulate cultural identities from

new influences are likely to run counter to one another.[1] It would be mistaken to infer from this that policy makers are trapped in a bind, required to favour one identity only at the cost of the other, since at a more general level the aspiration to insulate cultural identities against change – whether the identity at stake is that of the immigrant herself or the society she enters – is both implausible and undesirable. It is implausible because habits, customs, practices and even religious beliefs are invariably altered when confronted with new habits, customs, practices and religious beliefs, and even the attempt to shield against transformation can alter a cultural identity by closing it off. It is undesirable because cultural insulation involves unjustifiable constraints on the liberty of individuals to modify and adapt their cultural heritage as they see fit, and may also lead to an unedifying cultural stagnation. For example, in the case of language, migrants have made rich, unique and creative contributions to both everyday vernaculars and literary canons. Both the development of individual languages and global patterns of linguistic shift have historically been greatly influenced by (amongst other things) human migration, and it is unlikely that any conceivable and humane political policies will do much to alter this trend significantly.

If it is true that flux is a natural condition for languages and cultures that are exposed to one another, and if there is something to be said in favour of this condition, then liberal societies might be better advised to adopt a laissez-faire attitude towards linguistic identities. For instance, a liberal state might treat the different languages spoken within its borders with a kind of 'benign neglect' (Kymlicka, 1995, pp. 107–15), in much the same way that it already withdraws from other sites of controversy, such as with respect to religious diversity. However, whether or not a 'hands-off' approach is appropriate for cultural diversity more generally (for an argument in favour, see Barry, 2001; for an argument against, see Carens, 2000), it is impossible in the case of language. The idea of linguistic disestablishment is, at best, illusory, because the state's agencies, institutions and services all have to operate in some language(s) (Baubock, 2001, p. 321; Carens, 2000, pp. 77–8; Kymlicka, 1995, p. 111; Patten, 2001, p. 693; Pool, 1991, p. 496; Rubio-Marín, 2003, p. 55; Weinstock, 2003, p. 251). Even a minimal state cannot avoid encouraging and discouraging particular linguistic choices, since there are practical limits to the range of languages in which routine communications and bureaucratic operations can be carried out. Moreover, a state that refrains from adopting a language policy (one that, for example, neither requires nor prohibits translation services in essential public

services) is not one that successfully separates language and state, but is (in all likelihood) one that effectively discriminates against linguistic minorities.

Societies that accept immigrants without proficiency in the major or official language(s) must have a language policy. They have no choice but to make decisions about the extent of translation services to provide, and about which languages to officially recognize and to use in public life. Even if robust linguistic insulation is neither a viable or attractive proposition, societies concerned about the destabilizing influence of immigration may nevertheless have justified reasons to seek to manage some of the linguistic transformations that immigration can bring about. In particular, there are at least three possible ways in which unimpeded linguistic diversity could conceivably threaten some of the goods of citizenship. First, if substantial numbers of incoming migrants (and their descendants) refrain from adopting the national language as their own, then this may have long-term implications for ongoing national distinctiveness, up to and including the point of threatening linguistic desuetude if the erstwhile national language is not spoken elsewhere. Call this the *existential threat*. Second, majority language competence may be a prerequisite for competently discharging the duties of citizenship, especially democratic ones. Not only might immigrants without competence in the majority language struggle to deliberate effectively, but linguistic diversity could conceivably compromise the stable and effective functioning of democratic procedures and institutions. Call this the *democratic threat*. Third, because the content of an individual's linguistic repertoire will strongly influence the availability of social and economic opportunities, immigrants without competence in the major language(s) of employment and social life might be less able to carry out their valued plans and projects successfully. Perhaps more importantly, they may also suffer deliberative disadvantages in democratic forums, thereby compromising the equal status of citizenship. Call this the *egalitarian threat*. If any of these threats are genuine, then there could be sound reasons to favour policies to offset them, and the later parts of this paper will evaluate each of them in turn. Before doing so, two preliminary questions require attention. First, is citizenship acquisition an appropriate site for offsetting these threats, and if so, how might majority or official language competence testing fit amongst the various regulations that already govern access to citizenship in liberal societies? Second, is language testing a permissible feature of such regulations?

Naturalization and citizenship acquisition: Recent trends and normative issues

One reason to think that the regulations governing access to citizenship are an appropriate site for promoting majority or official language competence is that these measures are already in place (or have been proposed) in many states. The following argument assumes (but does not argue for) the general claim that liberal societies are entitled to control access to their territory, and to attach conditions to both admission and citizenship acquisition, provided that these conditions are justifiable to those who are excluded.[2] The current concern is with whether or not testing for linguistic proficiency might defensibly be one such condition, and in this regard it is interesting to note that within many societies the wider practices governing citizenship acquisition have recently exhibited a paradoxical quality. On the one hand, throughout the later parts of the 20th century increased sensitivity about discrimination has prompted a general propensity towards liberalization. Thus, for example, formal racial and ethnic barriers to citizenship have almost entirely disappeared, in many states length-of-residency requirements have been reduced, the principle of *jus soli* (albeit often conditional) has largely replaced that of *jus sanguinis*, dual citizenship is more frequently accepted, and the process of acquiring citizenship has increasingly become a rule-governed rather than discretionary one. On the other hand, aspirant citizens now also often face new hurdles, especially in countries with sizeable settled immigrant populations such as Austria, Denmark, France, the Netherlands and Britain. One such hurdle has been the emergence of 'civic integration' courses for newcomers (Joppke, 2007). These both train and evaluate future citizens in the host society's constitutional arrangements, history, customs and values. Often, the integrative dimension is subsequently reinforced in a public citizenship acquisition ceremony.[3]

The diversity of regulatory schemes – geographical and historical, real and potential – suggests that there may be considerable scope for experimentation in the design of rules for citizenship acquisition, and a variety of permissible naturalization regimes can be both observed and envisaged.[4] One way to sort through and categorize this range of potential schemes is to think about the incentive structure available to immigrants seeking citizenship. This will be determined both by the anticipated benefits of citizenship and by the anticipated costs of acquisition. Although some of these variables may fall outside the control

of the liberal state (as in the case of benefits associated with reuniting with family members, or the emotional costs of emigration), there is often considerable capacity for political influence, and part of the question about the permissible scope of citizenship acquisition regulations is to identify what kinds of things existing citizens can do to shape the incentives available to potential citizens. For example, one response to a perceived 'devaluing' of citizenship is to widen the gap between denizen and citizen (and this usually means worsening the condition of denizens rather than improving that of citizens). Meanwhile, raising hurdles to increase the burdens of acquisition can be used both to reduce the net flow of incomers, and to reassure existing members about the value or prestige of their own citizenship status. This final point is an especially important one, and existing citizens frequently place a high premium on a perceived willingness amongst applicant citizens to learn diligently about the history of the host society, about how the political structures evolved and operate and about the values that underpin them. This helps explain the recent paradoxical trends in acquisition regulations. Civic integration courses, including majority language learning and testing, may have less to do with finding new and inventive ways to exclude potential citizens, and much more to do with bolstering (what is perceived to be) a faltering national identity. In turn, this helps explain why relaxing naturalization requirements will often be politically controversial: it is like telling ourselves that 'what we are' doesn't really matter, even to us (Schuck, 1989).

Is language testing discriminatory?

There is, then, a continuum of potential naturalization regimes, from thin to thick, and how substantive a naturalization process is will be heavily shaped by how a political community understands both itself and the value of citizenship. By definition, any set of regulations that govern who is and who is not to become a citizen will be discriminatory, and may be so both for reasons beyond the applicant's control (as in the case of family reunification) and for reasons that have exclusively to do with the interests of the host society (as when applicants with scarce professional skills are favoured). Other widespread forms of discrimination to be found amongst the diversity of citizenship acquisition practices include, for example, excluding those who are unable or unwilling to swear an oath of allegiance or attend a formal ceremony, those who have not yet fulfilled particular residency requirements, those who are unwilling to endorse certain political values and those who are unable

to demonstrate required political, cultural or social knowledge. Discriminatory practices such as these attract varying degrees of controversy, but when they are controversial it is not because they are discriminatory but rather because critics object to the grounds upon which potential citizens are rejected. For liberals at least, discrimination against applicant citizens will be illegitimate if a sound justification cannot be provided, as is obviously the case with racial exclusion. More difficult are cases in which potentially justifiable forms of discrimination have unjustifiable discriminatory effects.

One powerful argument against compulsory language competence as a condition for citizenship acquisition places it in this final category. A notorious example of this was the Australian Dictation Test, which formed part of the White Australia Policy during its earlier years of operation.[5] The test was designed as 'an appropriately discreet form of racial exclusion' (Dutton, cited in McNamara, 1998, p. 357), and consisted in a procedure that could arbitrarily be fixed so that virtually any potential applicant could, if the authorities so decided, be guaranteed to fail. The test involved an immigration official dictating a passage, which the applicant would then be expected to transcribe. The twist was that the language used – other than it being of European origin – was at the official's discretion, and the unsurprising consequence of this was that from 1910 onwards, no one actually passed.[6] However, the Dictation Test was not objectionable simply by virtue of being discriminatory, but because the discrimination was arbitrary in its application and based on irrelevant reasons. Any test that is used on a discretionary basis rather than in accordance with clear, publicly accessible and justifiable rules will be one that no applicant can be confident of passing (which was, of course, the point). If arbitrariness could be demonstrated to be a necessary characteristic of language proficiency testing, then this would be an overwhelming argument against it. Similarly, the Dictation Test was unjustifiable because it excluded applicant immigrants for irrelevant reasons. In the case of citizenship acquisition, whilst there is a plausible case for discrimination that is intended to protect the good of citizenship, if language testing had discriminatory effects that were irrelevant for this purpose then it would be an unjustifiable form of discrimination.[7]

Even if implementing a carefully designed mechanism that tests for language competence does not bring about irrelevant discriminatory effects, it will introduce undeserved inequalities. This is because language testing establishes an additional burden that must be borne by some (but not all) applicant citizens (usually, to learn the majority

language). This burden will almost always be distributed unequally amongst applicant citizens, since the costs of additional language learning will vary according to linguistic background. Accordingly, the implementation of language testing will raise difficult questions of fairness, especially about the design of appropriate compensation schemes for additional language learners who subsequently achieve citizenship. These are matters that I do not consider here. Rather, I focus on the respective strengths and weaknesses of three potential justifications for discriminating amongst candidate citizens on the basis of linguistic competence.

The existential threat

The first justification for discrimination arises from the moral value of the attachments existing citizens may have towards their ancestral language. If existing citizens have 'an interest in maintaining their own languages, as sources of identity, pride, comfort, cultural heritage, connection with the past, and so on' (Patten, 2006, p. 110), then this may be sufficient to entitle them to use the regulations concerning citizenship acquisition to secure this interest.[8] The interest in language maintenance must be a significant one if this argument is sound, carrying sufficient normative weight to override the interests of applicant citizens in gaining access to the good of citizenship. In addition, a liberal argument based on the existential threat must also demonstrate why the interest that (some) members of a host society have in language preservation is normatively weighty in a way that the identical interest of an immigrant in maintaining *her* language is not.

Unfortunately, it is quite difficult to formulate with any precision what the interest at stake actually is. The existential threat is largely irrelevant if the interest in language maintenance extends only to so far as to include languages that are currently at risk of falling into desuetude.[9] This is because very few of the most vulnerable languages are officially recognized by states with large net migrant influxes. Admittedly, it is less trivial in the case of some settled minority languages, whose vulnerability may be exacerbated if forced to compete with new rivals in addition to a dominant language. However, it is not at all obvious that these languages would be more effectively protected by requiring immigrants to learn a new language as a condition of citizenship, rather than, for example, recognizing the minority language as an official one (on 'official recognition', see Patten, 2001; Reaume, 2003).

If the existential threat extends to languages that are currently dominant in liberal democratic societies (such as the major European languages) then the interest in language maintenance must be broad enough to capture vulnerability in the medium to long term. However, the impact of immigration for these languages is extremely unpredictable. Whilst some studies suggest that newly 'transnational' second- and third-generation immigrants are increasingly unlikely to shift to the majority language (Basch, Schiller and Blanc, 1994; Castles, 2000; Ong, 1999), and might therefore pose a long-term threat, others deny that traditional patterns of immigrant language shift are undergoing any substantial transformation (Portes and Rumbaut, 2001). What can be claimed with much greater confidence is that predictions about the long-term viability of a currently dominant language are extremely precarious, because language shift is influenced by a wide range of variables, many of which are currently unknowable (including, for example, ongoing developments in communications technology). Accordingly, it is difficult to justify compulsory majority language proficiency in order to secure an interest in long-term linguistic survival, since it is not clear that this interest is actually under threat. Likewise, reformulating the interest underpinning the existential threat in terms of linguistic stability would be similarly unpromising, since although the effects of immigration on majority languages are unpredictable, so too are the effects of protectionist policies. In other words, if individuals genuinely have an interest in linguistic stability, then this may turn out to be frustrated howsoever the regulations governing citizenship acquisition are set up.

An alternative formulation of the interest underpinning the existential threat connects it to a wider hypothesis about the importance of national identity. The general claim that individuals have a fundamental interest in their national identity has received significant attention in recent political theory (see, for example, Miller, 1995; Norman, 2006; Tamir, 1993; Tan, 2004), and the specific claim that linguistic identities and national identities are closely intertwined was a prominent theme in the writings of 19th-century nationalists, and can also be found in the work of historians (Hobsbawm, 1990), socio-linguists (Fishman, 1972) and social scientists (Billig 1995). One example of this argument can be witnessed in Québec, where immigration regulations currently discriminate in favour of French speakers, in order to protect the distinctive national identity of the regionally concentrated francophone Québecois within the context of an otherwise largely English-speaking Canada. However, if this argument is formulated in narrow terms, as a thesis

about an interest individuals have in preserving their national identity, then it may have a very restricted scope. The connection between linguistic and national identity is rarely as clear as it is in the Québec case, and language is not always a central symbol of national identity (Canovan, 1996, p. 52). Thus even if national distinctiveness is something that political communities are entitled to protect through their citizenship laws, this may justify language testing only in a limited range of cases.

Furthermore, employing the regulations governing access to citizenship to serve nationalist ends may entail unacceptable discriminatory effects. Securing national distinctiveness through citizenship acquisition regulations will require not only testing for majority language competence, but also prioritizing applications from candidates who are more likely to use the national language in their everyday transactions. In many contexts, this is likely to mean favouring native speakers of the national language, especially if there are currently social and economic opportunities available in rival languages (such as those used by existing denizens). This will involve not only discriminating against candidates on the basis of ancestry (and not competence), but also discriminating against candidates on the basis of an unverifiable prediction about their future linguistic habits. This may seem especially unfair from the perspective of candidate citizens disadvantaged by virtue of the fact that some existing citizens – who are speakers of the same ancestral language – have already established a linguistic niche that has subsequently come to be regarded as a threat by speakers of the majority language.[10]

The democratic threat

The second justification for discrimination concerns an instrumental function that is sometimes attributed to shared nationality, namely its capacity to support or stabilize democratic institutions. For example, David Miller has defended nationalist immigration restrictions on the basis that a common national culture 'serves valuable functions in supporting democracy and other social goals' (Miller, 2005, p. 199). Other liberal authors have similarly claimed that autonomy (Kymlicka, 1995) and trust (Lenard, 2007) depend upon (or at the least are supported by) a shared public culture. If these claims are correct, then there are reasons to justify restricting the flow of immigrants, and these may extend to cover citizenship acquisition regulations. Even though linguistic and national communities do not map precisely

onto one another, the democratic appeal to shared nationality may be enough to justify restricting citizenship on the grounds of linguistic proficiency.

The idea that linguistic diversity either threatens democratic institutions or undermines democratic deliberation is conventionally attributed to Mill, who claimed:

> Free institutions are next to impossible in a country made up of different nationalities. Among a people without fellow-feeling, especially if they read and speak different languages, the united public opinion, necessary to the working of representative government, cannot exist.
> (Mill, 1958, p. 230)

Van Parijs summarizes this in a stark form: 'No viable democracy without a linguistically unified demos' (Van Parijs, 2000, p. 236). This 'incompatibility thesis' can be filled out in at least two different ways, as a social scientific claim and as a philosophical claim. If either version is plausible then there will be at least one reason to favour linguistic proficiency as a condition of citizenship.

The social scientific version emerges from a particular understanding of the complicated relationships between the rise of nationalism, the spread of democracy and the growth of linguistic homogeneity at the level of the nation state. All three are part of the wider modernizing processes that occurred, at least in Europe, during the 18th and 19th centuries, and the causal relationships involved have been explored by a number of historians and political theorists (Anderson, 1983; Breuilly, 1982; Gellner, 1983; Greenfield, 1992; Yack, 2001). Simplifying greatly, the incompatibility thesis begins from the observation that popular sovereignty requires a sovereign people, and that to form such a body citizens must be capable of conceiving of themselves as a single entity. In the modern era, the characteristic form this entity has taken has been that of the nation, as suggested by the almost simultaneous rise of nationalism and democracy. Since 'a shared common language is pre-eminently considered the normal basis of nationality' (Weber, 1978, p. 395), it is possible to trace a causal link that connects linguistic homogeneity and democracy, mediated through the idea of the nation. Perhaps the clearest evidence to support this version of the incompatibility thesis is the experience of post-revolutionary France, which witnessed the rapid (and coercively imposed) spread of the French language at the expense of numerous local idioms.

However, whether or not this story is historically accurate, it is not enough to justify the 'no viable democracy without a linguistically unified demos' hypothesis. Shared nationality may be a sufficient source of unity, but it is not self-evidently a necessary condition for democracy, since there may be alternative sources of collective identification imaginable. Furthermore, to the extent that there is a causal relationship between linguistic unity and nationalism, it is that linguistic homogeneity is a *consequence* of nationalizing efforts, and not their foundation. Accordingly, all that can confidently be inferred from the social scientific version of the incompatibility thesis is that nationalism emerges to fulfil a functional requirement that was created by the emergence of democracy, and that it subsequently tended to stifle linguistic diversity. What it does not demonstrate is that admitting linguistic diversity into the *demos* will compromise either the efficacy or stability of democratic procedures and institutions.

The social scientific version of the incompatibility thesis is weak because it cannot conclusively demonstrate the existence of a conceptual connection between democracy and shared competence in a single language. The argument may fare better if put forward in abstract, philosophical terms. For example, one condition of a successful communicative exchange is that all participants have overlapping linguistic repertoires. This does not mean that each must speak in the same language, only that each must understand the utterances of the other. However, because democratic deliberation has the special feature of being public in character, successful democratic deliberation must be comprehensible to a wide range of affected parties, and not just speakers. In democratic deliberation, all citizens must be capable of entering into the deliberation if they so choose. Thus, in order to provide fair conditions for democratic participation, successful democracies will be ones in which either each citizen shares in at least one common language, or each citizen is proficient in a sufficient spread of languages such that they can always understand and be understood by everyone else. Since there are feasibility constraints on the range of languages any single individual can be expected to be proficient in, it is a likely condition of deliberative democracy that all participants are proficient in at least one shared language.

The conceptual formulation of the incompatibility thesis is vulnerable to the objection that several multilingual democracies actually exist, including, for example, in India, South Africa and Switzerland. Proponents of the incompatibility thesis, as a justification for compulsory majority language competence, have two responses available. First,

they might point out that multilingual democracies tend to favour federal political arrangements, but that federalism is unlikely to be viable in societies experiencing rapid immigration. Second, they might deny the relevance of these empirical counter-examples, on the basis that they merely demonstrate the possibility of sub-optimal democratic institutions in multilingual settings, and not that we should favour such arrangements. Both responses correctly insist that a multilingual democracy will be communicatively impoverished compared to a monolingual one, but they raise a larger difficulty that concerns the relevance of the conceptual formulation of the incompatibility thesis for political decision making. In short, it is difficult to see how much practical guidance can be derived from a model with such demanding democratic standards. Most democracies are unlikely to reach the dizzy heights of an ideal speech scenario, and in these places the question of whether or not accepting citizens without majority language competence threatens the stability of democratic institutions is likely to turn on a range of more mundane empirical variables, including the availability of public forums in minority languages, the absence of structural conditions that undermine minority political participation, the capacity of different groups in society to access political power, and so on. For these societies, whether or not linguistic diversity undermines democracy is not a question to be settled philosophically, but one that first demands creative experimentation in institutional design. Until these alternatives have been exhausted, it would be premature to conclude that accepting non-proficient citizens will compromise democratic institutions, since the institutions themselves may persevere nevertheless. Accordingly, although there may be potential empirical conditions that justify discrimination against applicant citizens on the basis of linguistic proficiency, it is not clear that these conditions actually obtain in any of today's liberal democracies.

The egalitarian threat

The third justification for discrimination on the basis of linguistic competence is an egalitarian one. Linguistic disadvantage undermines equality, and citizenship is a relationship of equality. For example, being unable to speak one of the dominant languages can make it difficult to access both public institutions (like the police, or the health-care and education systems, or the civil service) as well as those of civil society (such as voluntary associations and the employment market). If linguistic disadvantage is incompatible with equal citizenship, then this may

be a reason to use the instruments regulating citizenship acquisition in order to eliminate (some forms of) linguistic disadvantage. Linguistic disadvantage raises at least two questions for political theory. First, since it can be corrected *both* by enlarging individual linguistic repertoires (for instance, by supplementary language learning) *and* by adapting social institutions (for instance, by accommodating a wider range of linguistic preferences, or by extending minority language employment opportunities), there is a question about *how* disadvantage should be neutralized. Second, correcting linguistic disadvantage may require either that all citizens have equal linguistic opportunities, or that each has access to an adequate range of opportunities. Thus, there is a question about whether we should be egalitarians or sufficientarians about linguistic opportunities.

The second question can only be settled against the background of a comprehensive theory of justice, and if a desideratum of an account of the ethics of citizenship acquisition is compatibility with a range of reasonable views about justice, then it may be better to postpone answering it, if possible. The first question, however, raises a distinction between two different *kinds* of linguistic disadvantage that is very much salient to the regulation of citizenship acquisition. On the one hand, where there is a multilingual population that do not share overlapping linguistic competences, guaranteeing fair access (equal or sufficient) to public institutions can be achieved without requiring supplementary language learning, but through the allocation of instrumental language rights, and in particular translation services (Rubio-Marín, 2003). Likewise, by adapting social institutions, political communities are able to provide a wide range of opportunities for linguistic minorities to participate in the associations of civil society and in the labour market, both through subsidies and the provision of incentives (such as tax breaks).[11] On the other hand, there may be reasons to think that institutional adaptation is not adequate to overcome certain forms of linguistic disadvantage with regard to democratic participation. If this is the case, then achieving democratic equality may require supplementary language learning on the part of applicant citizens.

For instance, suppose one holds to a principle of equal access to democratic opportunity, one condition of which is that no citizen should be unreasonably disadvantaged when seeking to exercise her democratic voice because of the content of her linguistic repertoire. In the case of a territorially concentrated linguistic minority, this principle might be satisfied by official recognition at the regional level, and creation of sub-state democratic forums in a variety of languages. However, this

solution will be less applicable the more territorially dispersed and the less numerous a linguistic minority is, both of which are common characteristics in the case of immigrant groups. The obvious alternative, for such groups, is the employment of translators to facilitate effective participation. But not only is such mediation extremely expensive, translation can also be intrusive, and the necessity of third parties may undermine spontaneity and have distorting effects upon discursive flow. As a result, translator-facilitated participation may be disadvantageous for linguistic minorities, leaving the principle of equal access to democratic opportunity unfulfilled.

Instead of regional autonomy or translation subsidies, a more promising way to satisfy the principle of equal access to democratic opportunity is to provide for a right to majority language learning. Such a right would cover the costs of additional language acquisition, including compensation for time invested, and could provide for conditions whereby all citizens are able to partake in a single, unimpeded conversation. However, even in this case there may be an important disparity between the deliberative efficacy of ancestral speakers of the majority language and those using a second or third language. For instance, according to Kymlicka:

> The average citizen only feels comfortable debating political issues in their own tongue. As a general rule, it is only elites who have fluency with more than one language, and who have the continual opportunity to maintain and develop these language skills, and who feel comfortable debating political issues in another tongue in multilingual settings. Moreover, political communication has a large ritualistic component, and these ritualized forms of communication are typically language-specific. Even if one understands a foreign language in the technical sense, without knowledge of these ritualistic elements one may be unable to understand political debates.
>
> (Kymlicka, 2001, p. 213)

Kymlicka's claim is that although additional language acquisition can enable someone to handle routine business transactions, second-language speakers will be systematically disadvantaged with respect to democratic deliberation. However, the conclusion is undermined by its own argument, at least to some extent. As Kymlicka notes, it is perfectly possible for elites to maintain and develop additional language skills adequate for political participation, and – with sufficient assistance – there seems to be no necessary reason to explain why immigrants should

not fare equally well in this regard. Furthermore, it is not obvious that second-language participation disadvantages an immigrant *more* than would the available alternatives, such as translator-facilitated participation. Ultimately, this question must be settled empirically, but unless second-language participation will leave someone considerably worse off than translation would, then the additional benefits gained by learning an additional language (including those related to social and economic opportunities) are reasons to favour a right to majority language learning on egalitarian grounds.

Conclusion

If majority language learning is the best strategy to address linguistic democratic disadvantage, is this a reason for making citizenship conditional on competence in that language? As it is formulated above, it is difficult to see how a *duty* to majority language learning could be inferred from the principle of equal access to democratic opportunity. A right to majority language learning, justified on these grounds, will be a waivable right, and one that many applicant citizens may have good reasons to refrain from taking up, as might some existing citizens (especially members of national minorities). What the principle requires is that everyone has an equal opportunity for meaningful participation in democratic life, and whether or not they chose to avail themselves of this opportunity is a different matter. Someone who lacks proficiency in the language of democratic life may just be someone who lacks interest in democratic participation, and the liberty to place a low premium on political participation is not something that liberal societies should be eager to dismantle.

However, as a general rule it is acceptable for liberal democracies to demand more from applicant citizens than is required of existing ones, as when they require new citizens to swear oaths of allegiance or to demonstrate evidence of country-specific political and cultural knowledge. Since there are various ways in which the relationship between citizenship and democratic participation can be envisaged, a society that strongly values political engagement as an aspect of good citizenship may prefer a set of citizenship acquisition regulations that are supportive of this end, one of which could be majority language competence. The relevant reason for discrimination, in this case, is that the value of citizenship (as understood within that society) would be compromised by accepting members unwilling to play their part in democratic life. Whilst this is a coherent rationale for linguistic discrimination, its

justification is premised on a particular (and controversial) conception of democratic citizenship, and one that raises the risk of hypocrisy. For example, a state that justifies discriminating amongst applicant citizens (on the basis of linguistic competence) because existing members believe that 'democracy is what we do here' had better be a society in which democracy actually is done.

Notes

1. Emigration also transforms donor societies, and can be costly both in economic and cultural terms (as in the phenomenon of the 'brain drain').
2. This proposition is defensible, if at all, only against (counterfactual) background conditions of global economic justice.
3. This paradoxical quality has also been replicated in scholarship in legal and political theory. Whilst models of post-national, transnational and multicultural citizenship have each sought to open up new and interesting possibilities by decoupling citizenship and nationality, republican, nationalist and communitarian critics have sought to restore ideas of nation and unity to heart of the theory and practice of citizenship. In short, whilst some want to make citizenship differentiated and deterritorialized, their critics argue that without community citizenship loses its meaning.
4. Naturalization describes the process by which denizens become citizens (Hammar, 1990), and is the normal route to citizenship for immigrants. A denizen is typically defined as someone with permanent residency rights, and who is endowed with some of the rights associated with citizenship, but lacks the status of being a full citizen. Using Marshall's (1965) scheme of the various categories of citizenship rights, denizens nearly always have the full range of formal legal rights (they are guaranteed equal protection under the law), often have at least some social rights (they are entitled to access certain services, especially those pertaining to basic needs such as health and education) and may have a limited range of political rights (as when someone is entitled to vote in local but not national elections). Importantly, denizens are not defined by their pedigree or by their actions but by their legal standing (so, some might be asylum seekers and some might be economic migrants; some might be public spirited and some might not be).
5. The test is provided for in Section 3(a) of the 1901 Immigration Restriction Act, and concerned immigration rather than citizenship acquisition.
6. For example, one applicant – Egon Kisch, a Czech Jewish communist and journalist due to give a series of lectures – was fluent in a number of European languages, and thus posed a problem for the authorities. Their solution was to apply the test in Scottish Gaelic (McNamara, 2005).
7. A test that has irrelevant discriminatory effects would be one that, for example, systematically disadvantages the elderly, those with poor levels of prior educational attainment, or applicants from distant linguistic backgrounds. If it is impossible to design a test that does not have discriminatory effects, then (at the very least) a liberal society that employed such a test would be required to exempt disadvantaged candidates.

8. Something like the existential threat may also motivate linguistic rejuvenation programmes, which have also used citizenship regulations to further their ends. For example, after gaining independence from the USSR, and against a historical backdrop of attempted Russification, both Estonia and Latvia required Russian speakers to pass an examination in the local language to obtain citizenship through naturalization (Chinn and Truex, 1996).
9. The existential threat is a serious one in the case of many, and possibly most, of the languages currently spoken. Reliable estimates are difficult to form; one widely cited account suggests that of the (approximately) 6000 languages spoken today, about 25 per cent currently have fewer than 1000 speakers, and perhaps as few as 10 per cent can be confident of long-term survival (Crystal, 2000; on the relationship between language loss and liberal politics, see Blake, 2003).
10. This is an argument against using citizenship acquisition regulations to further nation-building or nation-promoting ends. It does not entail that nation promoting is an illegitimate state end.
11. Whether or not liberal societies can reasonably be expected to grant such rights or foster such opportunities depends on how one answers the equality or sufficiency question. However, the capacity of relatively wealthy societies to overcome a wide range of linguistic hurdles is not in doubt.

8

What Is 'Britishness', and Is It Important?

Rosemary Sales

Introduction

The notion of 'Britishness' has acquired growing importance in policy and public discourse during the current century. This has had a number of different, and often contradictory, elements. On the one hand there have been attempts to promote a renewed understanding of national identity as a means of promoting social cohesion. Gordon Brown suggested in 2006 that we need to assert that the Union flag represents 'tolerance and inclusion'.[1] This has been accompanied by a preoccupation with broader notions of citizenship, symbolized by the introduction of ceremonies to 'celebrate the acquisition of citizenship'. The white paper *Secure Borders, Safe Haven*, which proposed these ceremonies, talked of the need for a 'common sense of belonging and identity' and of what it described as 'British values' (Home Office, 2002). An official report by Lord Goldsmith called for all young (British-born) people to participate in citizenship ceremonies as part of 'coming of age' and for a national British day to enhance 'our shared narrative of citizenship' (Goldsmith, 2008, p. 93).

On the other hand, Britishness has been associated with a narrow and exclusive view of belonging. In a speech in early 2008, Brown called for the creation of 'British jobs for British workers' in response to media reports of popular concern with the number of immigrants arriving in Britain, particularly from Eastern Europe. There were suggestions that migrants compete unfairly for jobs and that they have 'swamped' local welfare services, especially housing and schooling. Outsiders, the non-British, are thus presented as taking what rightfully belongs to 'us', the British. Brown's latter intervention was largely rhetorical in the light of the recently acquired rights of these new European Union citizens

to participate in the British labour market. It chimed, however, with a wider agenda in which multiculturalism has come under increasing attack from politicians and commentators with a range of political allegiances. It also reflected the growing concern with 'managing' immigration policy based on selection of those deemed able to contribute economically and socially to Britain and with increasing conditionality in access to citizenship.

Britishness is a difficult concept to define. Its meanings are contested and have shifted historically as well as been understood differently by different individuals and groups. National identity is, of course, always a constructed identity, which is rooted in the past as well as in contemporary social institutions (CRE, 2005, p. 11). It has many dimensions – political, geographical, historical, cultural, economic – and the boundaries around each do not generally fit neatly together. This is particularly complex in Britain's case where confusion extends even to the name of the country. The official name for the 'British' state is the United Kingdom of Great Britain and Northern Ireland. Great Britain in turn consists of three nations: England, Scotland and Wales. Northern Ireland is thus part of the UK but not formally part of Britain. It is, however the region within the UK where the symbols of Britishness – Union Jacks, pictures of the Queen – are most visible in everyday life. It is also the region in which national identity is most fiercely contested. For most other British people, their 'British identity' is seen as 'tricky' and little discussed according to a recent study (CRE, 2005).

While the notion of the nation and national identity – or the national interest – claims to embrace all living within its borders, it embodies specific power relations based on class, gender and ethnicity. Indeed the notion of the 'nation state' contains a fundamental contradiction between a *state*, which holds sovereignty within particular geographical borders, in which certain common rights are taken for granted, and the notion of a *nation*, which suggests some common history and culture, an 'imagined community' that is 'both inherently limited and sovereign' (Anderson, 1983, p. 15). Thus citizenship embodies universal principles, above cultural difference involving equal access to some level of rights, yet it exists only in the context of a nation state which is based on cultural specificity (Castles, 2000, p. 188). The construction of nation states involves the spatial extension of state power and the incorporation of hitherto distinct ethnic groups. Luhmann suggests that 'state formation can be understood in terms of the territorialisation of political dominance' (quoted in Jessop, 1990, p. 350). This may involve the exclusion, assimilation or even genocide of minority groups.

The British state was constructed through conflict and conquest and represents the dominance by England over the other nations within its borders. Its history includes attempts to obliterate their languages and as a result Welsh, Scots Gaelic and Irish have struggled to remain living languages. Significantly, our national language is not 'British' but English, while England's power is also reflected in the dominance of London as not only the political capital, but also its financial and cultural capital. Slippage between the terms 'Britain' and 'England' is common both by English and non-British people. It is also a commonplace that Scottish or Welsh people become 'British' when they are successful but remain Scottish or Welsh if they fail. More recently black Britons have faced the same ambivalent acceptance.

As well as domination over the nations now incorporated into the United Kingdom, the British state was forged in the process of colonialism and imperialism in Africa, the Indian subcontinent, America and elsewhere. Britishness is thus inseparable to many from oppression and inequality. This view of Britain as an imperial nation continues in the context of current policies, particularly the war in Iraq.

The tensions embodied in the notion of Britishness have made it a difficult identity to embrace for many on the Left. Furthermore, major national institutions such as the monarchy and the Established Church reflect continuing inequalities and undemocratic elements. These are combined in a national anthem that calls upon a God in which many do not believe to save a monarchy that they reject. Some have claimed, however, that there is a need for a progressive version of nationalism. As the Labour MP Sadiq Khan suggests, the Left has allowed its rightful hatred of jingoism to spread to a distaste of anything nationalist, allowing the Right to define what all is British (Khan, 2007, p. 27). A number of recent reports by 'progressive' bodies have investigated how people identify with Britishness (e.g., Rogers and Muir for the IPPR, 2007; CRE, 2005) while the Smith Institute produced an edited collection investigating different conceptions of Britishness (Johnson, 2007). Some contributors were critical of the idea but most argued for a new and progressive form of national identity. Sadiq Khan, for example, argued for a new progressive civic identity, suggesting that in a world of hyper-diversity there is a need for concrete sense of shared identity (Khan, 2007, p. 4). Others, for example those associated with the Euston group, have attacked multiculturalism and called for a return to 'shared values' based on liberalism. David Goodhart, editor of *Prospect*, explicitly linked the notion of solidarity with what he considers problems of diversity and the need to control immigration.

Thus the versions of 'Britishness' currently being promoted by those who describe themselves as on the Left or 'progressive' end of the political spectrum[2] are by no means homogeneous. They share, however, the common search for a British identity that can bind people together. Below I first discuss the context in which this latest drive to promote Britishness has taken place. I then suggest a number of interrelated problems with this agenda, arguing that it cannot be the basis for social cohesion. These are, *first*, that the promotion of values in the absence of other strategies, and indeed in the context of policies that further divide people, cannot be successful in promoting social cohesion. *Second*, that there are inherent contradictions in the notion of 'British values'; *third*, that the unequal relationship between England and the other nations of Britain (or the United Kingdom) make Britishness divisive as well as potentially unifying; and finally, that any attempt to promote Britishness as a source of unity is inherently exclusionary in that it separates 'us', the British, from 'outsiders', the non-British.

The agenda of 'Britishness'

The recent resurgence of interest in Britishness is taking place within the context of political and economic changes, including the impact of globalization, which are widely seen as creating social fragmentation and dislocation. This fragmentation occurs at many levels. Economic restructuring has undermined traditional industrial employment, particularly male employment, and with it some of the social structures such as trade unions that promoted solidarity. This has been linked to changes in the family, undermining the 'male breadwinner' model and the extended family. Increased geographical mobility both separates family members and undermines a sense of rootedness in a particular locality. These changes are clearly not of recent origin but have been developing throughout the post-war period. They were given enormous impetus in the Thatcherite era with its agenda of promoting individualism through increasing the role of the market in the welfare system, increasing property ownership and reducing the role of local democratic institutions. This agenda has continued, and in some ways intensified, under New Labour. Individualism is also associated with a decline in religious belief and in overarching ideologies such as socialism. According to Bunting the collapse of religious belief 'hollowed out the edifice of British national identity, leaving little but heritage' (Bunting, 2007, p. 86). Goldsmith suggests that people born after World War II do not have shared experience of conflict and sacrifice (Goldsmith, 2008, p. 82).

It is, however, the impact of immigration and ethnic diversity that in many accounts is primarily responsible for undermining social cohesion and which has been to the fore in popular and official discourse. Immigrants are the most visible sign of globalization while the real causes are invisible and complex (Castles, 2000) and can thus become a focus of resentment and a target of hostility. Asylum seekers have become a particular focus for xenophobia since, while other forms of racism are becoming socially as well as legally unacceptable, 'there is no social sanction against expressing extremely prejudiced and racist views' about them (Lewis, 2005, pp. 44–5). The new discourse has also targeted longer-established migrant communities, including British citizens, who are seen as subscribing to alien values. Multiculturalism has been a particular focus of criticism. Multicultural policies were a response to the earlier assimilationist policies, which expected migrants to conform to the values and practices of the 'host' society. In promoting respect and understanding for diverse cultures, these policies are seen as reducing shared values. David Goodhart suggests that ethnic diversity is primarily responsible for this loss. We are now 'forced to share with strangers' but

> such acts of sharing are more smoothly and generously negotiated if we can take for granted a limited set of common values and assumptions. But as Britain becomes more diverse that common culture is being eroded.
>
> (Goodhart, 2004, p. 1)

Even Trevor Phillips, head of the Commission for Racial Equality, the body charged with combating racial discrimination, argued the need to hold onto 'a core of Britishness' (quoted in *Times*, as quoted in Cheong et al., 2007, p. 8). By implication multiculturalism had gone 'too far' and could undermine the values that hold British society together.

Official concern with social cohesion was crystallized with the 'riots' in impoverished areas of some cities in the north of England during the summer of 2001. The report that investigated these events (Cantle, 2001) claimed that Asian and white families were living 'parallel lives' with little meaningful interaction. This issue also preoccupied David Blunkett, then Home Secretary, whose white paper on immigration *Secure Borders, Safe Haven* followed soon afterwards. It argued the 'need for us to foster and renew the social fabric of our communities and rebuild a sense of common citizenship' (Home Office 2002, p. 10). It proposed ceremonies in order to celebrate citizenship as more than

a set of rights and duties. These were introduced in the subsequent Asylum and Immigration Act, 2002. In 2006 cohesion became a more central goal of policy with the establishment of a Commission on Integration and Cohesion to consider 'how local areas can make the most of the benefits delivered by increasing diversity' but also how they can respond to the problems which could arise because of 'segregation and the dissemination of extremist ideologies'.[3]

The latter points to another crucial element in this agenda, the 'war on terror', which followed the terrorist attack on the Twin Towers in September 2001. These concerns were immeasurably strengthened with the London bombings of July 2005 when four British-born Muslim men killed 52 people on London's public transport system. This atrocity raised questions about what it means to be a British citizen as these acts suggested the most profound rejection of the society in which the perpetrators had been brought up. The attacks on London have been interpreted by many people as evidence that some sections of the British Muslim population have loyalties that conflict with those of Britain (CRE, 2005, p. 10). The debate surrounding the supposed failures of multiculturalism has thus 'effectively linked the anti-immigration debate to questions about the loyalty of groups of migrants who are in many cases already citizens' (Statham, 2003, p. 165–6). The demand for loyalty was reiterated by Tony Blair on the first anniversary of the bombings when he suggested that Muslim leaders must

> do more to attack not just the extremists' methods, but their false sense of grievance about the west. Too many Muslim leaders give the impression that they understand and sympathise with the grievances, an attitude that ensures the extremists will never be defeated.[4]

Muslims have been seen increasingly as a 'suspect community' in need of intervention and control. While official attention has focused on Muslims, according to Khan 'overlooked communities both Muslim and white mirror each other in disadvantage and in the tendency towards political extremism' (Khan, 2007, p. 23). Jordan and Duvell argue that it is the middle class who are perceived as benefiting from multiculturalism and immigration, which provides access to restaurants and cheap cleaners, while working-class people see their living standards threatened by migrants (Jordan and Duvell, 2003). This is reflected in the growth in support for far right parties as exemplified by the capture by the British National Party of a seat on the London Assembly in May 2008. The official response to racist extremism has been to denounce

it while at the same time adopting some of its rhetoric, particularly in relation to 'illegal immigrants' and asylum seekers.

The strategy of promoting social cohesion through shared notions of Britishness is thus riven with contradictions. The Commission on Integration and Cohesion (2007), in its first report, defined social cohesion as 'a clearly defined and widely shared sense of the contribution of different individuals and different communities to a future vision for a neighbourhood, city, region or country' and where there is a 'strong recognition of the contribution of both those who have newly arrived and those who already have deep attachments to a particular place'. While promoting initiatives aimed at community building, the government has also problematized Muslim citizens and operated more selective policies towards immigrants. This undermines the trust essential for building a shared sense of community. As Stevenson puts it in the preface to the Smith Institute collection, 'there are clearly potential tensions between the desire to celebrate common values and the notion of Britain as a nation that is welcoming and accommodating of a wide range of cultures and belief systems' (Stevenson, 2007, p. 3). This issue has been fundamental to the promotion of Britishness and the conflict between its inclusive and exclusive aspects.

Values in the absence of other strategies

In her notorious dictum that there is 'no such thing as society', Margaret Thatcher explicitly rejected the idea of social cohesion and pursued policies promoting unbridled individualism. New Labour, on the other hand, has been preoccupied with promoting social inclusion or social cohesion and mitigating the worst levels of poverty through, for example, the minimum wage and targeted initiatives while simultaneously abandoning the goal of equality of outcome.

Preoccupation with social cohesion owes much to the idea of social capital, which has been most associated with the work of Robert Putnam. Putnam defines social capital as 'social networks and the associated norms of reciprocity and trustworthiness' (Putnam, 2007, p. 137). He argues that 'social capital can help mitigate the insidious effects of socioeconomic disadvantage' (Putnam, 2000, p. 319). Thus the promotion of socially cohesive neighborhoods is seen as a substitute for policies to tackle disadvantage. The adoption of social capital thus 'sidelines economic, material and structural inequalities and the interventions needed to mitigate them' (Cheong et al., 2007, p. 9). Indeed inequality

has increased over the past decade as the wealth and incomes of the rich have risen to unprecedented levels.

Values on their own, however, lack the motivational power to bind a community together (Rogers and Muir, 2005, p. 6). The government is attempting to create social cohesion through promoting a set of common values while at the same time pursuing market-driven polices, which further divide people. According to Gitlin (2007, p. 18), 'common participation in public education, public service and even transport matter greatly' help in promoting a shared sense of belonging. Government policy has, however, undermined this common participation. To take just the example of education, schools were turned into individual budget holders under the Conservative policy of Local Management and forced to compete for students through the 'market' created by league tables of exam results. There is also an element of compulsion, with inspections increasingly geared to identifying 'failing' schools. New Labour policies have further fragmented provision through the proliferation of different types of state schools. Under the academy programme, any institution or business able to pay £3 million may become the owner of a state school and set up an unelected and unaccountable governing body which is exempt from equalities legislation and from public scrutiny. The Church of England has been a major investor in academies while other faith bodies have been encouraged to set up schools within the state system. Thus divisions have become more institutionalized, threatening those everyday interactions that are expected to support community cohesion.[5]

Discussion of structural inequalities in relation to race has also become 'taboo' in the new 'assimilationism', where the adoption of appropriate values is seen as the key issue (Rattansi, 2002). It was not, however, lack of understanding of British values, still less of the English language, that brought young British-born Asian men onto the streets during the summer of 2001. Neither were they attempting to 'retain the freedom to force marriages onto more liberated daughters and granddaughters' (Rattansi, 2002), a reference to their supposed 'alien' values. On the contrary, they were expressing frustration at what Young describes as their 'widespread cultural inclusion followed by structural exclusion' (Young, 2002, p. 15) based on systematic discrimination in housing and employment (Rattansi, 2002). Interestingly, according to Cheong et al. (2007, p. 5), forms of social capital activities within certain ethnic groups that were once viewed as possible for social integration (such as the role of the family and religion within Asian communities) are now perceived in a negative light. As Breslin

puts it, 'if citizenship involves coalescing with a society from which they felt utterly excluded . . . it is likely to be, at best, a blunt tool for social inclusion and community cohesion' (Breslin, 2007, p. 79).

'British values'

The development of a notion of 'common citizenship' (Home Office, 2002, p. 10) involved developing some understanding of what it means to be a 'British citizen'. As Blunkett stated in his introduction to the white paper:

> To enable integration to take place, and to value the diversity it brings, we need to be secure within our sense of belonging and identity and therefore to be able to reach out and to embrace those who come to the UK.
>
> (Home Office, 2002, p. 4)

This sense of belonging and identity is, however, difficult to define and official notions of Britishness are ambiguous and contradictory. They have sought to link it to universal values, while on the other hand it has been tied to particular symbols of Britishness. Thus the white paper argued that the Human Rights Act, 1998, enacted to bring European legislation into British law, 'can be viewed as a key source of values that British citizens should share. The laws, rules and practices which govern our democracy uphold our commitment to the equal worth and dignity of our citizens' (Home Office, 2002, p. 30). Universal and democratic values are thus seen as inherently 'British'. This was stated more explicitly when in 2006 Tony Blair claimed that Britain's 'essential values' were

> belief in democracy, the rule of law, tolerance, equal treatment for all, respect for this country and its shared heritage . . . [this] . . . is what we hold in common; it is what gives us the right to call ourselves British.[6]

These 'democratic values' were counter-posed in the 2002 white paper to other 'cultural practices', which it argued 'conflict with these basic values', such as those 'which deny women the right to participate as equal citizens' (Home Office, 2002). The white paper also conflated forced marriage with arranged marriage, combining a statement opposing forced marriages (Home Office, 2002, p. 99) with an expression of preference for marriage partners coming from the UK rather than

abroad. Blunkett chose to muddy the waters still further during the white paper's consultation period, making repeated statements about forced marriage. This served as a cover for proposals to restrict the rights of marriage partners in cases that displayed a 'disturbing suspicion of the genuineness of marriage' (Yuval Davis et al., 2005, p. 519) and placed marriage with people living abroad under scrutiny. This scrutiny has, of course, been reserved for those from Asian background rather than non-EU citizens from the Old Commonwealth (JCWI, 1997, p. 13).

While democratic values are held to be inherently British, they are 'merely ideals to which anyone might aspire' (Winder, 2007, p. 32). Although British values are seen as democratic, their source is not sought in Britain's own history and as Mulgan comments none of Britain's proliferating heritage museums celebrate democracy (Mulgan, 2007, p. 62). The search for British values has not led to a re-evaluation of British history or of the limits to democracy, which continue to be embedded within the British state. The juxtaposition of democracy and archaic institutions is exemplified in the 'citizenship pledge' which the Nationality, Immigration and Asylum Act, 2002 introduced. It was added (below in italics) to the existing Oath of Allegiance which new citizens make:

> I [swear by Almighty God] [do solemnly and sincerely affirm] that, from this time forward, I will give my loyalty and allegiance to Her Majesty Queen Elizabeth the Second her Heirs and Successors and to the United Kingdom. *I will respect the rights and freedoms of the United Kingdom. I will uphold its democratic values. I will observe its laws faithfully and fulfill my duties and obligations as a British citizen.*

These ambiguities also surround the extent to which British identity can be seen as inclusive. Britishness has been promoted as an identity that accommodates diversity, as Blunkett suggests:

> British nationality has never been associated with membership of a particular ethnic group. For centuries we have been a multi-ethnic nation. We do not exclude people from citizenship on the basis of their race or ethnicity.
>
> (Home Office, 2002, p. 10)

Blunkett's statement, while rejecting a racialized view of British nationality, implies an equally mythical account of British history that ignores its particularist construction. While the ethnic basis for *formal*

citizenship status is relatively recent, exclusion on the basis of ethnicity and religion have been central to the construction of British national identity and to the rights enjoyed by British residents. British identity has been based on a Christian and, until recently, a Protestant identity. Despite 'the pre-eminence of *ius soli*, full belonging was predicated upon belonging to the national church: Anglicanism and Englishness were fused together' (Cesarani and Fullbrook, 1996, p. 7). This has impacted on political rights, which have been 'restricted due to the confessional nature of the state' (Cesarani and Fullbrook, 1996, p. 7). Religious discrimination in relation to formal citizenship rights largely ended in the 19th century, though in Northern Ireland the local electoral system, which favoured Protestants, was abolished only as late as 1969. Elements of that tradition still remain. For example, under the Education Act, 1988, all state schools are required to carry out a 'broadly Christian' daily act of worship, while the hereditary monarch, to whom new citizens must swear allegiance, is also Head of the (Protestant) Church of England.

There appears little appetite among politicians to address these undemocratic elements. In their report for the IPPR, Rogers and Muire write of the need to remove historical anachronisms such as the 26 bishops from the Church of England who sit in the House of Lords (Rogers and Muire, 2007, p. 7). They do not, however, include more difficult institutions such as the monarchy or religious schools. These issues remain largely outside the narrow 'common sense' that marks the boundaries of mainstream political discussion. The only recent official proposal to tackle the monarchy has been to incorporate into the new Equalities Bill a measure to abolish the ban on the monarch marrying a Catholic and to end male primogeniture in order to give daughters an equal right with sons to ascend the throne. The irony of modernizing the hereditary monarchy through 'equal opportunities' appears lost on Solicitor General Vera Baird, who has proposed these measures. It may be suggested that the monarchy is an irrelevance, more part of the world of celebrity and the pages of *Hello* magazine than of serious politics. However, it continues to play an important role in British public life and retains a considerable constitutional role (Sales, 2007). It also retains a profoundly ideological role. As Bunting suggests, 'God and the monarchy entrench privilege, deference and an elite's sense of entitlement' (Bunting, 2007, p. 87). The prominent involvement of Princes Harry and William in support of troops engaged in the Iraq war – and in Harry's case actual combat – is a highly political intervention aimed at gaining legitimacy and popular support for an unpopular

war. The monarchy's continuing survival suggests the immaturity of democracy and the limits to democratic values.

The disunited kingdom?

Britain is not a simple and straightforward entity and indeed its borders continue to be contested. The inequalities between the three nations are reflected in the imbalance of the way in which people identify with 'Britishness'. Research for the CRE (2005) investigated feelings of Britishness among British citizens from England, Scotland and Wales. Among white participants, the English thought of themselves as indistinguishably English or British, while both Scottish and Welsh identified more strongly as Scottish or Welsh than as British. This imbalance was replicated with the 'ethnic minority' participants who were happy to identify as either Scottish or Welsh but not with Englishness, which was seen as an exclusionary identity. As one put it:

> There is a difference between being British and being English. English is being indigenous, being white and from this country. But being British, the primary thing that comes to my mind is that you have a British passport.
>
> (quoted in CRE, 2005, p. 40)

Britishness, on the other hand, was seen as offering a 'space to belong' (CRE, 2005, p. 24) to this group. Other research with British-born Asian young men suggests that what is crucial is Britishness not as an identity but as a source of rights (Hussain and Bagguley, 2005). 'Britishness' and 'Englishness' are seen as racialized identities, while citizenship as an identity is not. Those born in Britain feel that their citizenship is their 'natural right' (Hussain and Bagguley, 2005, p. 411) but do not feel part of a common culture, first language or robust set of values shared by British citizens (Hussain and Bagguley, 2005, p. 414). They felt strongly that they belonged but perceived that the dominant white population does not fully accept that belonging (Hussain and Bagguley, 2005, p. 421). The Muslims in the CRE study also felt an imbalance in Britishness, in that they were asked to choose between two identities. As a Bangladeshi participant put it 'You really feel like an outsider when they ask you to almost choose. Why should I choose? Nobody asks you to choose between being a Church of England and British' (CRE, 2005, p. 40).

Significantly, this discussion has virtually ignored Northern Ireland. Indeed the CRE report states that 'the most basic, objective and uncontroversial conception of the British people' is one that includes 'the English Scots and the Welsh' (CRE, 2005, p. 22). Goldsmith's report on citizenship is ambiguous. When discussing the legal situation he includes Northern Ireland but in discussing identity he suggests that sense of British identity is widespread in 'all three territories', excluding Northern Ireland. Thus the place where people identify most strongly as 'British' is ignored. To address this leads to more difficult territory, since Britishness has been at the heart of the conflict. The British identity of the Unionist section of the population (predominantly Protestant, descendants of settlers from Scotland who settled from 16th century onwards) is contested by Irish nationalism (largely Catholic). It was privileged within the Northern Ireland state whose borders were constructed in order to entrench Unionist majority rule, a gerrymandering that was combined with systematic discrimination and manipulation of electoral boundaries. Thus Unionist, or British, identity has been linked to a conservative politics that has fought to maintain that privilege. It remains one which many – predominantly Catholics – within Northern Ireland reject, and a substantial number have Irish citizenship. The dominance of Unionism has made it difficult for some Protestants to find a progressive, or British, identity. One Protestant woman activist who rejected Unionist politics described how, having taken her husband's Irish-sounding surname, she was happy to be assumed to be a Catholic. Later she decided she was denying her identity: 'if everybody with my views is taken for a Catholic, the decent Protestants are not being heard'. On her divorce she reverted to her obviously Protestant maiden name, describing the process as 'coming out of the closet' as a Protestant (Sales, 2007). Ironically, the British identity which is so important to many becomes irrelevant when Protestants travel to what they call 'GB'. The distinction between Protestant and Catholic does not have the same social meaning and they are seen merely as Irish.

Britishness and exclusion: Who can be British?

The most serious problem with the notion of Britishness is its exclusionary character. When Brown talked about 'British jobs for British workers', he was counter-posing British workers with non-British workers who were deemed not entitled to these jobs. Thus social cohesion is to be achieved at the expense of the social alienation of others (Cheong et al., 2007, p. 23). This raises the question of who is included in the idea

of British. As I have suggested, nationality and national identity have different dimensions. Some people who possess 'British' citizenship, for example, may not identify with Britishness; some people have a more restricted notion of who 'belongs' to the British nation, which would exclude on the basis of culture or place of birth. Britishness is also something that may be retained by those who leave to live elsewhere (as for ex-pats living in Spain) and even be retained into the next generation through patriality.

Access to the formal status of citizenship and its accompanying rights is complex and has shifted historically. There are currently six different categories of citizenship, all of which offer different rights and privileges (Goldsmith, 2008, p. 72), while the proliferation of immigration statuses for non-citizens has further stratified rights (Morris, 2003). The Nationality Act, 1948, which codified nationality in the post-war period, created an 'undivided class of citizens of the UK and Colonies' (Goldsmith, 2008, p. 14). Subsequent immigration acts undermined this single class, distinguishing between the rights of citizens of the Old Commonwealth (predominantly white) and the New (predominantly the Indian subcontinent, Africa and the Caribbean). This was embodied in the distinction introduced in the Immigration Act, 1971 between patrials (those with a parent or grandparent born in Britain) and non-patrials. This term represented a code for ethnicity, since citizens of the Old Commonwealth were much more likely to have a British-born parent and grandparent. It thus introduced an element of *jus sanguinis*, with citizenship acquired on the basis of ethnic ties.

The rights of other groups have also shifted during this period. Poles, for example, were welcomed during the Cold War as refugees 'voting with their feet' against communism. The end of the Cold War and freedom to leave Poland brought mass migration, much of it undocumented. Poles thus became undesirable illegal immigrants subject to controls. With accession to the EU, they are EU citizens free to travel and work in Britain. Their social status, however, remains ambiguous seen as both insiders and outsiders within Britain. In 2005, a new 5-year strategy on immigration proposed that workers from the new EU states would replace non-EU workers in most unskilled occupations, thus institutionalizing their association with low-status work.

The ability to acquire citizenship through 'naturalization' – itself an ideologically loaded word implying that membership of a nation state is laid down by 'natural laws' (Castles and Davidson, 2000) – has never been a right but is always conditional. Britain's managed migration policy operates on an increasingly narrow notion of Britain's interests,

selecting those deemed worthy of entry and settlement on the basis of their use for the economy (particularly their skills) and their country of origin. Acquiring citizenship has become dependent on the ability to pass a language test and a test on knowledge of 'British life'. These tests exclude certain groups, the less literate and those with less opportunity for interaction, particularly women. There is a failure rate of 31.3 per cent (MIPEX, 2007) with a pass rate of only 46.3 per cent for Bangladeshis (Goldsmith, 2008, p. 118). While knowledge of the language is essential to participation in society, it is increasingly being seen in official policy not as a facilitator of integration but as a condition not merely of citizenship but also long-term residence.

Language acquisition is not merely about the ability to communicate but also plays a symbolic role in the construction of the nation. Thus, rather than welcoming bilingualism and the richness it can bring, ministers have urged minority ethnic communities to speak English at home instead of their first language. At the first citizenship ceremony Prince Charles evoked the language of Shakespeare, referring to Britain as the 'sceptered isle' (Alexander et al., 2007, p. 785). Thus English is seen as both a means of gaining access to universal citizenship rights and also as essential in constructing a very particular and exclusive version of British nationhood (Alexander et al., 2007, p. 786).

The article by Goodhart (2004) in which he called for a stronger British identity demonstrates how slippage can occur between thinking of citizenship as a formal status and more exclusive notions of national belonging. He claims on the one hand that citizenship is 'not an ethnic, blood and soil concept but a more abstract political idea – implying equal legal, political and social rights (and duties) for people inhabiting a given national space'. He goes on, however, to suggest that 'citizenship is not just an abstract idea about rights and duties; for most of us it is something we do not choose but are born into – it arises out of a shared history, shared experiences and, often, shared suffering' (Goodhart, 2004, p. 3).

Goodhart claims that his attack on diversity is based on the need to defend liberal values. As Cole argues, however, there is no morally justifiable argument for exclusion on the basis of liberal theory, since it upholds the moral equality of all persons and implies that all are equally eligible for membership (Cole, 2000). Liberal values, he suggests, are by definition universal and make no distinction between people of different nations, and the boundaries between members and non-members can only be created and policed in an illiberal way in theory and practice (Cole, 2007).

The strongest moral argument for excluding people from membership is the notion that democratic decision making and the provision of social welfare presuppose clearly defined boundaries of membership (Jordan and Duvell, 2003, p. 17). As Benhabib puts it: 'Universal human rights have a context-transcending appeal, whereas popular and democratic sovereignty must constitute a circumscribed demos which acts to govern itself' (Benhabib, 2004, p. 19). Cole suggests that there are two possibilities:

- we have complete freedom of movement, which under current conditions would make it impossible for liberal states to deliver goods and resources to members – this means there are no liberal *states*, or:
- exercise membership controls which violate central principles of liberal morality – this means there are no *liberal* states.

(Cole, 2005, p. 10)

The problem may not be as intractable as this stark counter-position suggests. In practice, migrants have been incorporated into aspects of social citizenship within the country of settlement. The extent and nature of this incorporation has depended on the particular welfare state regime, migratory history and tradition of conferring citizenship. Faist (Faist, 1995, p. 178) argues that social citizenship defies 'clear cut institutionalised criteria' and therefore the boundaries between citizens and non-citizens tend to be blurred. Some rights are acquired through employment, for example work-related benefits and workers' protection. Non-citizens are also entitled to some civil rights when visiting or residing in other states, for example to protection from assault and against arbitrary arrest, the right to fair trial, and so on. Migrants may therefore acquire rights through residence and participation, thus decoupling rights from nationality. Proponents of transnational citizenship argue for the extension of rights, such as political rights, to non-citizens (Castles, 2000).

Supporters of the new assimilationism suggest not only that it is necessary to exclude people in order to secure rights for the included, but also that they should be excluded specifically on the grounds of their 'difference' since diversity undermines the solidarity that is necessary to maintain welfare systems. Putnam himself, using evidence from the United States, has suggested that 'The more ethnically diverse the people we live around, the less we trust them' (Putnam, 2007, p. 147). His quantitative evidence, based on fixed racial categories and notions of

'community', is open to serious question (Ryan et al., 2008). It is, however, a theme that has gained widespread support. Wolfe, for example, states:

> There is an inevitable relationship between strong welfare states and low levels of immigration. If you want a strong citizenship and a strong sense of social solidarity, you will have to worry about how many people you can have in your society.
>
> (Wolfe, 2002, p. 11)

Goodhart links multiculturalism to welfare provision, asking 'is there a "tipping point" somewhere between Britain's 9% ethnic minority population and America's 30% which creates a wholly different US-style society – with sharp ethnic divisions, a weak welfare state and low political participation?' (Goodhart, 2004, p. 3). This question ignores the different histories and class relations in the United States. According to Pearce (2007, p. 56), cross-national studies show that fairness matters more for its level of social trust than does homogeneity. Furthermore, ethnicity is only one form of diversity and one aspect of identity. The restructuring and retrenchment of welfare in Britain was not a response to immigration. Indeed, immigrants were vital to the development of the welfare state (Williams, 1989) and welfare services continue to be heavily dependent on migrant labour although they have been systematically denied its benefits (Kofman et al., 2000).

The exclusion of others does not provide the basis for increasing solidarity and undermines rather than promotes social cohesion. The name of the white paper which introduced citizenship ceremonies and the concern with British identity, *Secure Borders, Safe Haven*, embodies a fundamental contradiction (Sales, 2005). The impact of the maintenance of 'secure borders' and their accompanying discourses of threat undermines the safety of all who are visibly 'different', regardless of their immigration status. It thus prevents the development of trust which is an essential element of social cohesion.

Conclusion

Concern with Britishness has arisen both as a result of the impact of long-standing social and policy processes and from immediate events such as those connected with the 'war on terror'. The former have, through promoting individualism and undermining solidarity, created a sense of disconnection and loss for many, particularly those who

have suffered economically from these developments. In the absence of policies to tackle the underlying causes of disenchantment and disconnection, the promotion of Britishness can do little to promote social cohesion.

Furthermore, the promotion of Britishness has been ambivalent and contradictory. While there have been attempts to promote a progressive and inclusive agenda, in failing to address the inequalities and undemocratic aspects of British life, it inevitably ties Britishness to a particularist version of national identity that privileges certain sections of the population. It by definition excludes those deemed not British by citizenship or culture and can easily slip into legitimating racism.

Britishness is too contested an identity to be a source of unity even for British citizens. British values, insofar as they are seen as based on a 'belief in democracy, the rule of law, tolerance, equal treatment for all' as Blair claimed, are universal human values, which all who live in Britain can share. They are not, however, uniquely British and to evoke Britishness in calling for support for these values is reminiscent of colonial attitudes in which the 'civilized' were distinguished from the uncivilized 'other'.

Notes

1. Speech to the Fabian Society, reported on BBC News, January 14, 2006.
2. More explicitly exclusionary versions are of course promoted by the Right, for example, by the British National Party.
3. Ruth Kelly, Secretary of State for Communities and Local Government speaking at the launch of the commission.
4. Tony Blair, speaking to the Commons liaison committee, July 4, 2006.
5. For further information see, for example, Campaign for State Education (CASE): http://www.campaignforstateeducation.org.uk.
6. 8 December 2006 speech by Tony Blair 'The Duty to Integrate: Shared British Values' (see http://www.number-10.gov.uk/output/Page10563.asp).

9

Introducing the Majority to Ethnicity: Do They Like What They See?

Steve Fenton and Robin Mann

Introduction

Relatively little is known about what the 'ethnic majority' think about ethnicity and 'national identity' and indeed about whether they think about those things at all. Baumann (1996) has shown, in his study of Southall, that in a multi-ethnic social space where 'white' groups are numerical minorities, those communities (white English, Irish) do develop a consciousness of ethnic difference, including their own 'ethnicity'. In many British and English social spaces this conscious majority identity will not be found in such an explicit way. It is difficult to be precise about what has prompted 'awareness of ethnicity and nation' (insofar as it can be detected) among the majority. Of course there is a visible multi-ethnic presence in most English/British cities and immigration is persistently debated in public political discourse; there is also a politics of multiculturalism, which includes a reactionary anti-multiculturalist discourse. But in general how the majority public views 'multiculturalism' is little understood. Even if we acknowledge these factors (multi-ethnicity, immigration debates), it is not obvious that the majority will begin to view daily life, and national political life through a predominantly ethnic lens, and certainly not that they will see themselves as 'ethnic'. On the other hand English/British *national* identities are familiar constructs, whether or not attended by enthusiasm and overt nationalist sentiments. And there is a well-rehearsed scholarly and public discourse about 'national identity'. This identity is seen to be threatened (in Britain) by global shifts in the loci of political and economic power, by the emergence of the European Union, by the end of empire and de-industrialization, as well as by the multi-ethnicity we have just discussed.

Baumann (1996) has referred to these changes as the 'divorce between nation and state', in part driven by the state's inability to guarantee welfare and security for its citizens. Indeed at the beginning of the 21st century, members of ethnic majorities within Western liberal democratic states are said to be experiencing a 'crisis of identity', as the continued significance of 'their' nation state is questioned in the face of a greater interconnectedness of the local and global. These states have historically cultivated a sense of national belonging in the citizenry. At the same time, there is increasing unease about the inward and outward movement of people, and about regional and indigenous nationalisms. Majorities now find that 'their' nation state is threatened by global movements of capital, culture and people.

The surge of expression of collective identities (Castells, 2004), along with the aforementioned social and political transformations, has prompted new research into the mentalities of ethnic majorities (Garner, 2007; Heath et al., 2006; Kaufmann, 2004a and 2004b; Verkuyten, 2004). However, despite this increasing focus upon majorities, we lack a clear understanding of how majorities are responding to these changes. For example: How are majorities within Western liberal democracies changing in response to the expression of identities by migrants and minorities? And how does an emphasis upon multicultural recognition influence their orientation to national identity? Here we look to address these questions by interpreting ethnic majority sentiments towards nation and multiculturalism in Britain.

Nation taken for granted

In the United Kingdom, the coinciding demise of the British Empire with entry into Europe, increasing ethnic diversity and political devolution to Scotland and Wales are seen as pivotal factors in challenging dominant majority national narratives and in problematizing the identities of what were previously 'unimagined' English communities within Britain. Politicians, cultural commentators and possibly some of the population in general treat national identity as problematic. Political elites in these countries may embrace changes by fostering Europeanism, posing the state as a competitive actor in global markets and, domestically, adopting multicultural cosmopolitanism. At the same time as the global liberal economy and cosmopolitan 'open-ness' are embraced, new nationalisms and demands for national cohesion are revived. As Bernard Crick remarks:

> . . . for the first time anyone can remember in a people who have taken themselves so much for granted, have been widely envied for their psychological security, [that] an anxious debate has broken out about national identity.
>
> (Crick, 1995, p. 168)

This chapter examines how these questions of 'the state of the nation' are received by ordinary members of the majority and represented in ordinary discourse. While Britain is the (nation) state point of reference, our focus will be on the majority in England. We begin by outlining differences and similarities in existing approaches to understanding the ethnic majority. Utilizing extensive qualitative interview material derived from two recent research studies, we then describe the case of the ethnic majority in Britain. In particular, we examine the different ways in which members of the ethnic majority speak about nation, country and the 'multicultural society'. In exploring this material, we observe the contradictions in ethnic majority sentiments between, on the one hand, resentments towards what are viewed as incursions on national identity and, on the other, indifference towards the nation, country and ethnic diversity. Similarly, with regard to 'multiculturalism' there is a tension between a liberal welcome of multicultural Britain and reassertion of themes of national cohesion and meritocratic individualism.

Understanding the ethnic majority: Issues and approaches

Although most research on ethnicity and multiculturalism is still focused on minorities it is increasingly argued that, whether through the guise of whiteness (Bonnett, 2000; Frankenberg, 1993; Garner, 2007; Tyler, 2004), dominant ethnicity (Kaufmann 2004a), dominant nationhood (Wimmer, 2004), or majority group (Phalet and Swyngedouw, 2002; Verkuyten, 1998), majorities are drawn into reconsidering their identities. We can, nevertheless, identify at least three contrasting, yet interrelated, research perspectives that contribute to our understanding of the majority.

The first such approach involves the characterization of the majority as simply 'white'. In this instance, whites may appear in studies of ethnicity and racism as the bearer of racist attitudes, discriminatory intentions or intercultural ignorance. This is reflected in a number of studies conducted since the 1950s aimed at capturing white

attitudes to immigration (Banton, 1960; Foot, 1965; Miles and Phizacklea, 1979). Revived anti-immigrant sentiment may thus be seen as the contemporary version of this longer trend. A second approach is to characterize the ethnic sentiments of the majority in terms of national identity. In other words, minorities are ethnic groups; majorities are not ethnic groups but have *national* identity. Indeed, within the scholarship on nations and nationalism, there has been a significant turn towards both 'measuring' (Heath et al., 2006; McCrone et al., 1998; Phillips, 2002) and 'interpreting' (Condor, 2000) the everyday national attitudes and imaginations of the white majority. Michael Billig's work on banal nationalism (1995) has also inspired researches that explore how national consciousness resides in the routine spaces of everyday life within established nation states. In this regard, there has been an increasing focus upon tracking national identities in Britain.

A third dimension is constituted by invocations of and references to the ethnic majority (alternatively 'majority culture' or the 'monocultural' versions of nationality) within the literature on multiculturalism and minority rights. Common citizenship may be viewed as tacitly endorsing majority culture (Kymlicka, 1995, p. 183). Whilst claiming to be neutral, citizens' rights and institutions are 'implicitly tilted towards the needs, interests and *identities* of the majority group' (Kymlicka and Norman, 2000, p. 4; italics added). A related argument is that indigenous members of the nation ought to rethink their previously secure sense of belonging. For example, the need for a pluralistic redefinition of national identity is evident in the government-commissioned Parekh report, *The Future of Multiethnic Britain* (2000). In this sense, homogeneous definitions of national identity, prevalent amongst the ethnic majority, may be constructed as a bulwark against the recognition of minority cultures. Political theorists such as Kymlicka and Norman have also argued for a rethinking by the ethnic majority of their national identity. As they state explicitly:

> We should remember that symbolic recognition is not simply a matter of members of the majority acknowledging the special status of minority groups with whom they share a state. *It also requires members of the majority to rethink their own group's identity and relation to the state*. So an Englishman would recognize not only that Britain now contains large numbers of citizens of Asian, African and Caribbean descent (in addition to the Scots, Welsh, Northern Irish, and Manx); but also that this requires rethinking what it means to be British . . . he

> may have to distinguish more clearly than he had before between an ethnic English identity and a civic British identity.
>
> (Kymlicka and Norman, 2000, p. 30; italics added)

The last point in this passage is interesting because it endorses a plural sense of Britishness, which can represent its diverse citizenry, whilst simultaneously endorsing an ethnicized English identity, as the preserve of the ethnic majority, and which sits beside other hybrid identities (e.g., black-British; Asian-British). It is also a call for a new sense of nationhood (rediscovered and re-conceived), which majoritarians may be ill disposed to entertain. This highlights the problematic nature of nationhood in Britain, in that an inclusive British national identity may sit alongside exclusive conceptions of English (and indeed Scottish and Welsh) national identity. As Kaufmann (2004a, p. 11) states, 'it is much easier to reconcile a 'thin' version of national identity with minority claims than to deal with competing "thick" ones'. At a 'practical-political level', O'Leary has argued that 'a majoritarian democratic federation requires a *Staatsvolk*, a demographically, electorally and culturally dominant nation' (O'Leary, 2001, p. 291; italics in original).

The disavowal of ethnicity and the adoption of ordinariness are two important ways in which majorities may speak of themselves. So, majorities tend to have a view of themselves as *not* having ethnicity and/or being nationalist. Cohen (1997, p. 250) for instance refers to whiteness as 'degree zero' of race. Billig (1995) argues that established nation state nationalisms are mistakenly viewed, by academic and media people as well as ordinary people, as a 'point zero of nationalism'. It was the asymmetry that Everett and Helen Hughes were observing in the early 1950s, when they noted a certain 'opting out of ethnicity':

> All human beings used to belong to ethnic groups . . . . But now we are beginning to speak of some people as ethnic and others as not. If, in any community, n is the number of groups by the old definition, then n minus one is the number of groups by the new definition. There is one which is not ethnic: that is, the charter member ethnic group of the community; and there are people who are ethnic (having) less than full standing in the local society.
>
> (Hughes and Hughes, 1952, p. 7)

Thus majority ethnic identities are characterized by their unmarkedness. In the case of English identity as the dominant national identity in Britain, Colley (1992) and Kumar (2003) have argued that

the understatedness – or even denial – of dominant nationhood has had historical importance in the ideological construction of civic Britishness. Ethnicity is the property of others, but never of 'us'. Condor (2000) argues that national identity denials may have more recent origin, resulting from a concern with not wanting to be nationalist in the same way as not wanting to appear racist or prejudiced (see also Fenton, 2007).

Second, there is the desire to conform to notions of 'being ordinary'. By being 'ordinary' or 'normal' people can be just themselves, as opposed to being products of particular locations.[1] Belonging to ethnic groups is seen to diminish one's sense of individual autonomy and rationality. Verkuyten et al. (1994) point to how notions of ordinariness come into play in the way majority Dutch respondents considered anti-racists, community workers and liberal intellectuals as biased in favour of ethnic minorities and against the 'ordinary' and 'down to earth' majority. This is also an argument made in certain strands of the British press. In the *Daily Mail* for instance, Richard Littlejohn constructs multiculturalism, and its endorsement by 'trendies' and 'intellectuals', as against 'the people': 'selling out the indigenous English' and 'out of touch with the realities of ordinary English life' (cited in Kundnani, 2001, p. 56). Here therefore, ordinariness is related to indigenousness.

Following Barth (1969), it may be that the only *ethnic* characteristic of the majority is in its relational boundaries with other ethnic groups (see also Baumann, 1996). As Eriksen (1993) states, concepts of 'minority' and 'majority' are relative: 'A minority only exists in relation to a majority, and *vice versa*' (1993, p. 114; italics in original). Understandings of who 'we' are often are dependent upon the presence of internal and external others. In this sense, it is worth considering how majority respondents talk about both 'nation' and 'the multicultural society'. In the next section we focus upon our qualitative research, presenting the discursive ways in which ethnic majority individuals' views of national identity and multiculturalism in Britain are expressed. We begin by providing a brief outline of the two projects. We suggest that some crucial steps in the politics of (national) identity have been taken, by public commentators, academics and politicians, without much grounded knowledge of how the ethnic majority talk about country, nation and identity. In the following section we attempt to add to what is known by exploring data from two studies on which the co-authors have worked.

The ethnic majority in Britain: Evidence from two qualitative studies

The data presented in this paper are drawn from two large-scale qualitative interview studies[2]: 80 qualitative interviews were conducted with 20–34-year-old adults in different areas of Bristol in 2002 as part of an ESRC (Economic and Social Research Council)-funded study, while 100 qualitative interviews were conducted with adults ranging from 18 to 85 in areas of Bristol and Westown[3] between 2004 and 2005 as part of a Leverhulme-funded study. The majority of the respondents were of white English backgrounds, but with a small number of minority ethnic respondents, also interviewed in both cases. The Leverhulme study also involved 10 focus groups with ethnic majority respondents. These studies provided a large corpus of qualitative material involving individual and group interviews, with more than 250 respondents. In presenting these data, we refer to three groups of respondents: ESRC Bristol, Leverhulme Bristol and Leverhulme Westown.

Majority views of a multicultural society

The earlier work of Billig (1985, 1988) provides a social-psychological framework for interpreting majority attitudes towards multiculturalism. There are two aspects to his argument that are particularly important here: first, that everyday discourse is not clear and definitive but ambiguous and, in his words, 'dilemmatic'; and second, that everyday representations of broader ideological (or philosophical) themes can be found in the ordinary speech of ordinary people. That is, those ideas which can be found in grand ideologies or political philosophies are also reconstituted in ordinary everyday speech in phrases like 'be fair', 'take everyone as you find them', or 'you can only get out what you put in' (see also Moscovici, 2000). The last point in particular suggests that inclusion and entitlement should be earned from investment. People speak their minds but they also repeat customary repertoires or fragments of speech – what Wetherell (2003) refers to as 'cultural resources'. Below we provide some examples of the dilemmatic nature of majority discourses towards multiculturalism. In particular we see how respondents try to veer between different goals, between a common identity and respect for diversity; or between the need for newcomers to 'blend in' whilst also being entitled to retain 'their own culture'.

'We've got to get a balance': Ambivalence towards multiculturalism

> they don't want to take on English identity they want their own identity . . . I think they should try and join in and be English I mean I'm not forcing people on but if you move somewhere . . . you become part of that community . . . you can keep your own identity but I think you got to mix in with you know that country.
>
> I think we got to get a balance I mean everybody's got their own beliefs I don't see anything wrong with that as along as I don't expect them to but just adhere to the English way of things.
>
> as long as it doesn't um like erase the culture that was in place before they came then fine but it should be . . . I mean you can have as many cultures as you want and I think it's good for to open peoples minds . . . I don't think it should become . . . I don't know it shouldn't hide ours.
>
> if they're prepared to come over and abide by what we say or, not by what we say but 'em I don't want their way of life to impair ours if . . . if they come here they then obviously they got their own views . . . but they should abide by our views as well as their own I don't mind them having religions and their own things but when something is British . . . they done if for hundreds of years . . . and they object to it it's a bit like moving to an area where its an airport on your doorstep and then complaining about it but you know the airport was there before you moved there.
>
> I like to see different cultures I like living in that sort of society um but I don't you know I like I like it to be integrated.
>
> (Leverhulme Bristol)

In examining the above qualitative material, the dilemmatic nature of talk becomes clearly evident. This also means however that it is extremely difficult to classify individual respondents as, for example, favourable or unfavourable to 'multiculturalism'. Rather, one finds a number of contradictory themes cutting across individual responses. As well as drawing on wider political or public ideologies of fairness and equality, majority talk is also mediated by their local context. Respondents living in putatively multicultural districts didn't necessarily consider themselves as living in a multicultural area. As one puts it, 'no this street isn't multicultural it's mainly white'.

'What about us?' Ethnic majority and discourses of resentment

> They should put us first that's how I see it I'm not racist or anything but I think they should put us as well
>
> Interviewer: *What kind of things?*
>
> Housing . . . yeah it's about housing ain't it I've got friends who want a house and they can't get it cause somebody else is getting it do you know what I mean they should think of us as well . . . they're all coming over from all other places do you know what I mean and we're sort of like left behind that's how I feel just a bit left behind.
>
> I mean I am not racist but umm I do find that our government now seem to give more to people from other countries more so than looking after our own people like the elderly shutting down old day centres and making places for more like asylum people coming in whereas they should be looking after our own . . . they think we can look after ourselves we look after our families . . . these people coming in they haven't got anything to give the country they don't work most of them.
>
> (Leverhulme Bristol)

While we found little evidence of outright hostility towards others or racial denigration within our corpus, these responses are representative of a 'resentment-fuelled' strain of sentiment within these studies. They are based on a sense of 'grievance' or 'losing out'. They are also, notably, largely material in their focus upon housing and work.

National identity and implicit whiteness and ethnicity

With regard to majority identity and its implications for the inclusion of migrants, an important aspect to consider is how 'being white' may be implicit within majority constructions of nationhood. In the UK, Englishness, if not Britishness, is often strongly coded in relation to whiteness, rurality and tradition (McDonald and Ugra, 1995; Neal, 2002). Such correlations may lead to the tendency, albeit decreasingly, amongst established ethnic minorities to see themselves as British, but less so English. As put by one British Pakistani respondent we interviewed:

> Interviewer: *Do you see yourself as English, British or what?*
>
> I don't think English because you, with British you can probably associate with yourself a little bit more, but with Englishness that's

> very, that's different you see, that's very sort of white Englishman and um (pause) it's difficult really, even though people, I've seen people going the extra mile to become British or English there was, there's always a time when they are sort of reminded by other people or incidents that they still are as an outsider.
>
> (Leverhulme Bristol)

Of course, English and British cannot be easily separated and respondents would commonly talk interchangeably about England and Britain as 'their country', depending on context and choice. Equally, however, English and British could also be found to convey different sentiments. As put by one of our small-town respondents in a focus group:

> Well I mean you can be anything and be British can't you .... You can, you can be anything from anywhere. As long as you're a citizen, you know, you could come here and say you're British but uhh ... we are English by race. That's what it gets down to.
>
> (Leverhulme Westown)

Our data also show that Englishness continues to be defined in opposition to ethnic diversity, and thus strongly linked to an unstated whiteness. As we illustrate in an earlier study, white majority respondents may take national identity for granted to such an extent that they view being asked questions about their national identity as odd or strange: as if this should already be obvious to the interviewer, given that they fulfill a set of criteria including accent, place of birth, residence and appearance (Mann, 2006). This disjuncture between 'English' and 'multi-ethnic' was evident across a spectrum of individuals who participated in the study, including a small number of respondents from ethnic minority backgrounds. On the other hand, these common-sense assumptions may reflect a process of ethnicization, as opposed to racialization, whereby Englishness sits numerically alongside a range of other ethnic identifications within a multicultural society. In other words, 'the English' are just one of many, for example, English, Pakistani, Indian or African Caribbean.

> Interviewer: *Ok, I mean, would you describe it as an English place?*
>
> Very English I would think, yeh, English, yeh.
>
> Interviewer: *What's English about it?*

> Huh, well, there just doesn't seem to be huge outside influences. There's not a lot of ethnic minorities here, there are a few, but there's not, there's very, very, I don't know, it just, it just doesn't, it just feels English rather than multi-cultural.
>
> (Leverhulme Westown)

> What typically English? What do you mean, what would by English? No probably not, it's multicultural isn't it so no, I don't think it has, no, I don't think so.
>
> Interviewer: *Because it is a multicultural area?*
>
> Because it's multicultural and also because I think a lot of the policies and a lot of the facilities in the area are specifically aimed at members of the ethnic minorities and that's quite clear because you see the mosques, and you see the other facilities, particularly on Shapworth Road, and there's nothing English about any of that unfortunately or fortunately, it depends on the way you look at it I suppose.
>
> (Leverhulme Bristol)

Both these extracts demonstrate how the portrayal of Englishness as synonymous with being white cuts across different local milieux but with contrasting implications for those living within them. The view of Westown as 'an English place' held common currency amongst its residents. For the most part, the Englishness of Westown was defined in opposition to the presence of ethnic groups, minorities and multiculturalism, and thereby defined implicitly in terms of most people being white, and essentially 'English' in style and culture. In Bristol, respondents spoke of the multi-ethnic local context, and in this situation, multi-ethnicity and mixture meant that the place could not be considered as 'English' but as 'multicultural'. However, variations internal to neighbourhood meant that those living in 'white' streets may also consider where they live as having an English character.

Indifference towards nationhood and multiculturalism

While people may report themselves as English or British when questioned, they may still reject the idea that national belonging has any importance to them. As one respondent puts it, 'Yes I am British but this doesn't really mean anything to me'. In these cases respondents may present English and British as the 'state of things' with a certain facticity (e.g., 'it's a fact I was born in Britain', and 'it says British on my passport') whilst avoiding their presentation as a preference or interest. Fenton (2007) also finds that people will argue, sometimes strongly,

against the idea that national identity has any significance to them – as the following respondents demonstrate:

> I'm British I suppose. I don't really think about it. It's never been an issue.
>
> (ESRC Bristol, cited in Fenton, 2007, p. 331)

> Technically, I'm British. That's what my passport says. I don't consider myself to be British, I don't feel British . . . . Having moved round the world so much, I don't feel a particular allegiance to any country . . . . I adore travelling, I love seeing the world and I largely consider myself to be a person of the world.
>
> (ESRC Bristol, cited in Fenton, 2007, p. 334)

This indifference towards national identity tends to be associated with a favourable view of multiculturalism. As in the following:

> If you look at the people who do really great things in the world, and I mean really great things, not just make a big impression, are often umm multi-racial themselves. And I think it's very valuable that . . . I love the idea that Britain is a multi-racial country, I really do.
>
> (Leverhulme Westown)

> I mean there's some wonderful bits of Bristol, you know. And I really like that, you know I think that's a real bonus.
>
> (ESRC Bristol)

> I think it's good to have different experiences, different people, different history, different cultures, different religions because I think the more you know about each other the more likely you are to get along.
>
> (Leverhulme Bristol)

The extract below exemplifies the 'ideological' elements contained within the theme of *indifference* towards 'identity'. As in other cases, ideals of meritocracy and individualism, coupled with an edge of resentful anti-political correctness, are reconstituted as common sense (e.g., in the form of 'treat each person as they come'; 'in the end people are people'; 'differences between people shouldn't matter'):

> . . . That different cultures and religions are able to worship in the way they want to worship. Dress in the way they want to dress . . . perhaps

> it's a bit idealistic . . . that it doesn't matter who anyone is. At the end of the day no one is any different anyone else. And that's not just ethnically, that's . . . doesn't matter what religion they support, doesn't matter what colour they are . . . where they were born doesn't matter, what their sexuality is doesn't matter . . . .
>
> (ESRC Bristol)

As we referenced earlier, Condor (2000) and others have identified the numerous ways in which majorities 'deny', or at least 'downplay', their national identity. The above extracts support this argument. However, this doesn't tell the complete story. Majorities also believe that people 'should be allowed' to be English and/or British, that is, 'to have an identity', if they choose to, even if these categories do not mean much to themselves. That is, 'if other people can have their identity, then we should too'.

'Why can't we be English?'

> I think there is a bit of an unequalness when its okay to celebrate Jewish ceremonies or culture for example but when a pub tries to put a St George Flag up it gets told to take it down because some Jewish or other groups see it as racist that just completely doesn't make any sense at all how can it be right for one but wrong for another.
>
> (Leverhulme Westown)

> I don't ever take it offensive when I see other countries' flags so I don't see whether, I er, they might do but I don't see that they should really when, do you know what I mean, if there's a rule made for one you make the rule for everyone, there shouldn't be no differences that's how I look at it.
>
> (Leverhulme Bristol)

Again ideologies of 'fairness', 'right', 'diversity' and 'equality' in identity politics may be invoked. Often these discourses will be directed at various authorities (government, local councils, teachers and police), which are viewed as 'restricting' and 'regulating' their free expression of national pride. As Gellner (1983, p. 4) writes, 'the state poses a problem for nationalism when its boundaries are incongruent to those of the nation'. Such discourses may be particularly prominent in multinational states such as Britain or more widely where the civic ideal runs counter to the interests of the ethnic majority. At the same time, the above discourses of English majoritarianism are not met by support for 'English

devolution' or for the institutional demarcation of England. From this point of view, Englishness is largely de-politicized in that these cultural 'demands' do not manifest themselves in terms of politics or policy, at least not beyond the politics of marginal and extremist pressure groups and political parties.

Conclusion

Ethnic majority discourses appear to incorporate contradictions between, on the one hand, resentment towards what are viewed as incursions on 'their' sense of national identity and, on the other hand, indifference towards the nation, country and ethnic diversity. Given that both sets of data are qualitative, we cannot make firm statements about the social location (class, place, age) of shaded phrasings of 'national identity' among the majority. Nevertheless there are good reasons for believing that indifference to national identity is more strongly associated with young adults, and maybe those with further and higher education. Survey data on the decline of national pride in Britain would also appear to support this (Heath et al., 2006). Conversely, resentful sentiments towards nation and country appear to be linked to insecurities over life trajectories, and this sentiment may also be found amongst middle-class respondents.

What then are the implications of this for the inclusion of new arrivals within conceptions of the nation? As this chapter shows, tacit majoritarianism is evident in the use of terms such as 'we', 'us' and 'ours', particularly when these are opposed to stated minorities and immigrants (Fenton, 2005). At the same time, shared insecurities amongst both the ethnic majority and established minorities, such as insecurities over 'safe borders' and 'illegal immigration', may also impinge upon the utility of a majority/minority boundary. This binary may be disrupted by new arrivals in which established ethnic minorities report similar concerns around the state of 'our' community and belonging that would have previously been expressed in terms of 'white' racial attitudes towards immigration (see for example Hudson et al., 2007, p. 110). This repositioning is also reflected in changing perceptions of national identity, whereby, in Britain, ethnic minorities have been found to be increasingly reporting an attachment to English identity, particular in relation to sport (i.e., football). Either way, there is a sense that what newcomers should be integrating into is not simply a detached shared community but something which is 'ours'. This raises considerable doubt over the

possible realization of normative goals towards the redefinition of the nation in more plural forms.

In the face of a politics of ethnic identities, it is not clear where the (white) ethnic majority can turn. One possible route is towards a cosmopolitan acceptance of diversity, which is found among some respondents, for sure; for others this most likely seems to be out of reach. Another is towards an explicit adoption of a 'white' identity, which is not respectable and leads in the direction of a racism that most people disavow. Similarly problematic is the adoption, discussed above, of an ethnic English-ness coupled with a civic British-ness. Ways out of the dilemma are not easy to detect, except by refraining from thinking about it. This is probably what many or most people do by conscious decision or, more likely, by default.

Notes

1. Savage et al.'s (2000) study of class sentiments in England describes equally how both middle- and working class identities provide claims to ordinariness, thus suggesting that the 'majority' may not always be ethnic in content.
2. Fenton, S., Bradley, H., Devadason, R., Guy, W. and West, J. ESRC funded project 'Winners and Losers: Young Adults' Employment Trajectories', project number: R000238215; Fenton, R. and Mann, R. 'Nation, Class and Ressentiment' funded as part of the Leverhulme Programme on Migration and Citizenship held jointly by Bristol University and UCL.
3. 'Westown' is the pseudonym for our small-town research site located in the west of England.

10
Conclusion: Practice and Policy

Gideon Calder and Jonathan Seglow

Citizenship acquisition has an ambiguous texture, both in theory and practice – an ambiguity informing and borne out in the different contributions to this book. 'Becoming a citizen' has a formal, legalistic sense: the point at which one is counted, by relevant authorities and institutions, among the citizenry of a country. It also has a more substantive aspect, concerned with the lived experience of the individual, their relations to others, and their orientations towards the society of which, as citizen, they are a part. Thus while the granting of formal citizenship is one thing, gaining access to what the late Bernard Crick (2001, p. 1) called a 'citizenship culture' is another. While the first might be categorized in black-and-white terms – through the meeting of designated requirements – the second is more slippery to identify, or establish. Individuals for whom formal citizenship is never in doubt might be less than active in the sustaining of a vibrant civil society. And vice versa: if 'citizenship culture' suggests an active, constructive involvement in public affairs, this is by no means simply dependent on one's possession of a passport, or even voting rights. Yet in both senses, of course, what counts – or should count – as citizenship is a deeply contested notion. In both senses it links up with other issues and factors – political, economic, moral, legal and sociological – with which, as a notion and in practice, it has become inextricably tied up. These factors too have been addressed, from different directions, throughout the foregoing chapters.

In concluding, our aim is to take a broader view of the problems and possibilities, both normative and empirical, raised throughout the book. In order to do so – and as a way of negotiating ambiguities highlighted above – we shall frame our discussion of migration, citizenship and national identity through the idea that the migrant, in order to become a fully paid up member of a new society, undertakes a moral journey

with four stages. Each of these stages involves the enjoyment of some new form of access. First, then, a migrant has to gain access to the territory of her target state. This, however, does not distinguish her from the tourist, businessperson or other short-term visitor. Second, therefore, she must gain access to the right of residency. This does not (necessarily) mean that she has total immunity from deportation; it involves, rather, the acquisition of certain rights of 'denizenship' of which leave to remain is one. The third stage on the journey is when a resident migrant gains access to citizenship, when she is naturalized, or at least has the freedom to naturalize. This might appear to be the final stage. However, a newly naturalized citizen may still feel, with some justification, that she is an outsider with respect to the national culture of the state she has joined. There is then a fourth kind of access, therefore, which involves citizenship in a more amorphous cultural sense. With this stage complete, the migrant, once an outsider, is now a member in full standing of the society she has joined.

What landmarks does the migrant pass on this journey? A migrant who enters the territory of another state must cross its border. Borders are not natural but political constructions, and their present conceptualization is the result of a specific historical process. In the Middle Ages and earlier, people were not (routinely) coercively prevented from entering different jurisdictional authorities. Before the invention of the modern nation state, jurisdictional authorities were nested, overlapping, criss-crossing, ill defined and often contested. Only with the modern state have borders become clear, sharp, simple and unified. Nevertheless for several hundred years until the start of the 20th century, clear borders coexisted with free migration as peoples, driven by poverty, persecution and the prospects for a better life, entered new states without hindrance. Closed – or fairly closed – borders are an artefact of states seeking to protect their economic, political, cultural, ethnic and religious interests. As Cole's and Torresi's contributions to this volume show, it is far from clear whether they have the moral right to do so. The idea of *open* borders does not just capture something of the historical picture, but it can be defended on normative grounds. The arguments for it divide into two families: one based on the value of individual liberty, the other on social justice. The liberty argument for open borders is the simplest. A Millian version of it says that individuals should have the freedom to do whatever does not harm other people and immigration does not cause existing citizens (and residents) harm in any relevant sense. A rights-based version of the liberty argument says that freedom of movement is a basic right and that it is morally arbitrary, and hence

illegitimate for that right to be curtailed by the borders of states. Rights theorists have also attacked the asymmetry of individuals possessing the absolute (moral) right to exit their states with severely limited rights to enter another one. The best-known defender of open borders, Joseph Carens (1987), makes use of John Rawls's moral device of the original position in his liberty-based defence of open borders. Persons have interests in fulfilling relationships, satisfying careers, cultural opportunities and religious observation. In a global version of the original position, Rawls's moral parties would endorse the right to freedom of international movement on the grounds that the successful pursuit of any of these interests might require their emigration to another state. Open borders have also been defended on social justice grounds. Morally minded economists sometimes argue for open borders on the grounds that it would serve to maximize global aggregate well-being. A utilitarian argument such as this one, however, also requires that we take into account the costs of open borders – wage depression, ethnic tensions, the brain drain and the psychic difficulties of upheaval – costs that are far from fairly distributed. There do not seem good grounds for thinking that the former benefits would systematically outweigh the latter costs. More commonly, then, champions of social justice turn to a recognized principle of distributive justice to defend open borders. A Rawlsian concern with benefiting the least advantaged in the world might support a policy of open borders insofar as the least advantaged people are currently 'imprisoned' in their own societies with the means of their improvement lying abroad. It is not clear, however, whether Rawls's difference principle would support open borders between better-off states, or whether global redistribution would fix on open borders as its means.

Not all the moral arguments are on the side of open borders. Michael Walzer (1983) famously argues that the proper domain of distributive justice simply is the nation state and that citizens only have humanitarian duties to take in 'necessitous strangers' (which Walzer interprets as refugees) but not other categories of migrants. Even if one rejected Walzer's particularist understanding of the domain of justice, it is perfectly coherent to maintain that the moral interests of native citizens are of sufficient stringency that they systematically outweigh the interests of outsiders in being admitted. Here there are two broad strategies that the defender of the legal status quo might adopt. One is to take a nationalist position, and to argue that the moral value of a sovereign people exercising control over their nation is of sufficient importance that, though they may owe duties of justice to non-nationals, they nonetheless possess the collective right to exclude them at the border.

This argument, which, broadly speaking, is invoked by David Miller (2007) in his defence of immigration restrictions, can be contested on the grounds that there is no pre-political notion of the people (Abizadeh, 2008). The other strategy is a less communitarian and more liberal one. It is to argue that the state is an association of free and equal people, which, like all associations (clubs, firms, universities, etc.), has the right to exclude outsiders (Wellman, 2008). Whether the state is relevantly like an association in the public sphere has been contested by some. A third alternative – for anyone who takes seriously the arguments both for open borders and for fairly closed ones – would be to take a balancing approach that seeks to weigh the interests of insider citizens against outsider strangers, perhaps making use of principles of utility or democracy in order to do so.

Suppose a migrant has overcome this first hurdle, entered the territory of a new state and become a resident (or 'denizen'). The next question we face is what rights she should thereby legitimately acquire. Unlike tourists, residents are typically offered more than simply the protection of the criminal law, but it is never the case that they have all the rights of citizens. Different jurisdictions grant the various categories of residents a greater or lesser package of rights. Those seeking asylum in a new state are usually in the most precarious position of all: they are granted few rights, and may live in real fear of deportation. Long-term, settled denizens, who have through their own choice not applied for citizenship status, are in the most advantageous position. In some states the only citizenship rights they lack are the right to vote for national elections, the right to stand for public office (also sometimes the right to work in sections of the public bureaucracy) as well as total immunity from deportation (although in practice this is extremely rarely exercised). Settled denizens may be further advantaged by the fact that they are not subject to some of the more burdensome duties of citizenship, such as the duty to serve on a jury or to serve in the armed forces. The extent of these denizenship rights may be one explanation why naturalization rates in many jurisdictions are fairly low. There could, however, be a trade-off here. A state may be more willing to admit more migrants if the rights they acquire through their residency are few and limited. Perhaps justice requires that states ought to admit more migrants if the rights it offers them are sparse. Conversely, if a state admits few migrants it is arguable that it ought in fairness to grant them a relatively high proportion of the rights of citizenship. Further, one can at least make a case that it is the latter state, not the former, which has the more generous immigration policy.

Having said that, there seems something wrong with an approach to migration policy that conceives it as a moral trade-off between numbers admitted and rights conferred. One reason for that wrongness is that for many if not most migrants in the world today, migration is a highly constrained choice. The pull of improved economic prospects abroad, social pressures to return remittances, the basic human desire to live with one's family and of course the real fears from which some migrants flee may all make remaining in one's home society an unappealing prospect. For many categories of migrants, then, for whom decision to move is a response to real needs, it may be unjust to grant them only very limited rights. This arguably communicates to them a message of disrespect, expressing the view that their interests count less than citizens.

Besides residency, residents, at least most of them, will want the right to work. Without it, primary migration rates would be fairly low. They may also expect welfare rights: health care, unemployment and sickness benefits, and so on. One can plausibly argue that denizens deserve this if they are contributing through working. Remunerated labour is not, of course, the only way a person can make a productive contribution to her new society: parenting is also socially necessary work, or an older migrant might make an important communal contribution to their local neighbourhood. However, besides these appeals to reciprocity, one can also argue that any person who is normally resident in a society, and who has made her home there, ought to be afforded at least the basic protections granted to other members. It is consistent with this latter position nonetheless to expect that denizens fulfil the basic duties of citizenship in a liberal democratic state: not just obeying the law, but being more amorphous, for example, carrying out environmental duties, as well as acting towards others in a spirit of tolerance and neighbourliness (a point to which we shall return).

What other concrete rights should denizens have? They may also expect the right of their children to be educated at state expense (again this can be defended on grounds of reciprocity or simply as an entitlement of members of society), the right to get married (in practice denizens who marry a national or naturalized citizen tend to enjoy greater rights), and the right to vote. As David Owen argues in his chapter in this volume, the consistent liberal position may well be to extend two sets of voting rights to residents: as non-nationals in their new society and to expatriates in the states whence they came – their dual voice reflecting the fact that their interests are affected by political changes in two communities.

The third stage in the journey our migrant encounters is when s/he gains access to citizenship. What are the extra rights (and responsibilities) that entail beyond those stemming from residence, varying from state to state, besides the normative questions it involves? If the latter includes virtually all the rights and duties of citizenship, then arguably it is not unjust for would-be naturalized citizens to face reasonably burdensome requirements. Conversely, if residents have few rights, then that might speak in favour of straightforward naturalization, else we risk confining many residents to more or less permanent second-class status. Leaving that issue aside, there are basically two perspectives from which we can approach the ethics of naturalization: that of the state being asked to grant citizenship to newcomers; and that of the residents seeking to acquire citizenship themselves. As we noted, the state has an interest in long-term residents making a productive contribution, being law abiding and adopting the civic virtues of tolerance and respect for others. It may also insist that would-be citizens acquire competence in the official language(s), relinquish their former citizenship, have a clean criminal record, possess knowledge of their new society's history and institutions and, much more vaguely, integrate or assimilate into their new society. These requirements can quite easily be misapplied in practice. If an applicant's knowledge of the culture and history of her new society is assessed by an immigration official in a one-to-one interview, there are ample opportunities for ad hoc discrimination. Moreover, to the extent that a liberal state does impose such tests, it is unjust not to give migrants a fair opportunity to acquire the knowledge necessary to pass them. Andrew Shorten makes this case with respect to language in his chapter in this volume.

There is also the point of view of the resident migrants themselves. To adopt their perspective is not just to endorse the liberal position, which sees the state as the artefact of those individuals over whom it claims authority, but it is also to note that, unlike would-be members of a club or association, resident migrants are already normally cooperating members of society. They are already the colleagues, friends, neighbours and schoolmates of citizens. From this perspective then it may be unjust to raise naturalization hurdles so high that many of them will face a situation of more or less permanent alienage. This is essentially Joseph Carens's (2005) membership argument for naturalization. Since resident migrants' lives are already entangled and intertwined with those of established citizens, it seems unfair not to make naturalization fairly easy for them. That may be so from their perspective, but the liberal state also has a compelling interest in ensuring that each new generation of

citizens is schooled in the liberal virtues, and as James Hampshire points out in his chapter, naturalization requirements, if properly administered, can incentivize residents to obtain the appropriate dispositions, and test whether they have acquired them. And as Iseult Honohan suggests, where plural societies are not bound by a shared ethnicity or consensus value of value – where they are political creations through and through – the more important citizens' preparedness to deliberate with others different from themselves becomes.

The 2001 Cantle Report on community cohesion, following race riots in the UK in 2001, spoke of some citizens and minority groups living 'parallel lives' (a counter-example to Carens's claim about intertwinement). An alternative argument for naturalization focuses on the fact that resident aliens, since they lack the vote, are subject to the coercive authority of laws they had no say in making. Only as citizens, with the right to vote in state elections, can that coercive authority be justified to them. (An obvious problem with this argument, however, is that it is possible to give denizens the vote without thereby making them citizens, as for example New Zealand does after a mere 1 year's residence.) Another argument is that resident migrants contribute to their new society in various ways, as we have seen, and hence it would represent a failure of reciprocity on the part of the state not to recognize that contribution by making citizenship fairly easy to acquire. This argument is also appealing, though its weakness is that it treats migrants and citizens in fundamentally different ways. While the former would face a contribution test as a condition of their becoming citizens, the latter would face no such penalty if they failed to contribute. Yet another approach to the ethics of naturalization points to the failure of respect involved in granting migrants access to the main social and economic institutions of the state yet at the same time insisting on their lesser status when it comes to the political institutions of citizenship. From the perspective of equal treatment, the latter seems a rather arbitrary exclusion (Seglow, forthcoming).

Even when a person acquires citizenship in their new society, their journey may not be over. It is perfectly possible to have overcome obstacles and passed any number of tests, and yet psychologically speaking still feel quite alienated in the society of which she is now a legal member. Even after many years' residence, a citizen may well feel closer to the society that she left than the one she has made her home – even if, practically speaking, she has rather more to do with the latter than the former. A person's sense of alienation may not, of course, be an injustice for which we can hold some other agent to account. For one thing,

we think that people should bear the costs of their choices. If migration is a choice (and as we've seen, it may not be) then we might recommend any person who is attached to their national culture to remain at home. Still, that cannot be the whole of an answer because it may be the second or a subsequent generation who feel estranged, and even if it is a member of the first generation we may think estrangement too high a cost to bear for migration. From a liberal perspective, there would seem to be two divergent (though not quite opposite) solutions. One is to focus on the character of the national culture, interpreting it in such a way that it is more rather than less welcoming for new joiners. The other is to try to dispense with the notion of a national culture for political purposes and recommend some other instrument, which might play the roles that that notion was asked to perform. A good example of this second strategy can be found in Andrew Mason's idea of belonging to a polity. '[A] person has a sense of belonging to a polity', Mason explains, 'if and only if she identifies with most of its major institutions and some of its central practices and feels at home in them' (Mason, 1997, p. 272). A person who identifies with a polity regards it as valuable and an appropriate object of her concern. Mason contrasts the notion of belonging to a polity with the ideal that citizens belong together – the latter occurring only when they share something substantive in common such as a language, history, culture or religion. Though these two types of belonging will tend to go together, it is possible at least in principle for citizens to belong to a polity even though they do not belong together because there is little if anything that they share. In practice, Mason suggests that Switzerland, Belgium and the United States may be societies whose citizens belong to a polity but not together (Mason, 1997, pp. 273–6). If all citizens belong to the polity then that should suffice for their polity to be stable and enduring, and hence Mason aims to show how liberal institutions can survive even in societies whose citizens may share very little in common. If migrants continue to feel estranged from their societies to some degree, that is not against the backdrop of states' official promotion of a dominant religion, language or culture; also, migrants may belong together in smaller, sub-political communities.

Rather than trying to work around national culture, the other strategy, as signalled above, accepts shared nationality as an enduring part of social reality not likely to disappear in the near future but seeks to reform it in a liberal direction. This liberal nationalist approach has received its most thorough exposition in David Miller's work. Miller conceives of national identity as having five features (Miller, 1995, pp. 22–27). First, national communities are constituted by the right kind of attitude.

This does not quite mean that they have some objective feature in common, which is one interpretation of Mason's notion of belonging together, but it does at least denote some joint commitment to a common life. Second, nations are historical communities; their shared past shapes their identities today. Third, however, nations are active identities; their character is dependent on the decisions of their members and not those of some other authority. Fourth, nations are territorial entities, and fifth, they share a common public culture. The latter is a set of norms and values, not a fixed essence, which would be too exclusive. A nation's citizens have reason to value their nationhood, thinks Miller, both for intrinsic reasons, because of the mutual recognition and solidarity they enable, and also for extrinsic reasons. Just because nations function as a kind of social cement in large and anonymous societies imbued with market norms, they supply their members with the right kinds of motives to make the kinds of sacrifices that schemes of social justice impose on their participants, as well as to accept that they will sometimes be the losers in democratic decisions. Miller draws some quite powerful normative conclusions from his conception of nationhood: that they have only limited duties to assist other nations for example, and they have the right to determine which immigrants to admit. The more is the moral weight placed on nationality, however, still more important it is to ensure that that conception of it being appealed to is a just and liberal one. Not surprisingly, that is easier in theory than in practice. Rosemary Sales shows in her chapter how the UK government's various attempts to promote British nationality have been shot through with injustices.

Despite this, Miller is keen to stress that his conception of nationality is an inclusive one, this being part, of course, of what makes it a liberal nationalism. In fact, his claim is that societies with a thriving sense of national identity are more hospitable to new entrants precisely because there is a narrative by which the latter can situate themselves and to which, in time, they can feel attached (Miller, 1995, pp. 136–9). Because the national narrative is constituted by belief and not objective features and is active rather than anchored in the past, it is also one to which minority groups can contribute. The way immigrants have played a role in the remaking of Australian national identity is a good example of the latter, but Miller also cites American identity as one largely absent exclusive ethnic content (perhaps there is a similar assumption behind Mason's scepticism towards its members' belonging together). Fenton and Mann's conclusions in their exploration of how the indigenous majority view nationality may provide succour for both positions.

While, on the one hand, most of the respondents they interviewed viewed nationality with some indifference, they also had strong views about the threat posed by an influx of minorities (prompted in part by concerns over economic security). If the motivation behind reservations about immigration among the British public is primarily economic, rather than reflecting a concern for the preservation of a British identity or core values, this suggests a dissonance between stated government priorities and those of the citizenry at large. We address further aspects of this point below.

Each of the chapters in this book has sought to move between abstract questions and the practical impacts and implications of citizenship acquisition. At the level of policy, it is noticeable that the ambiguities highlighted at the start of this chapter, and the four-stage journey we have depicted, punctuate both political discussion and the legislative agenda. When it comes to criteria applicable to each stage, there are some patterns of conformity across the Western democracies. Thus the current UK threshold for naturalization (for non-EU citizens) is 5 years' residency (though with a proposed extension – see below). In France, it is 5 years' residency, as it is in the USA. In Finland, it is 6. In Germany, it is 8; in Spain and Italy, 11. In Belgium, it is 3. In Ireland, it is 5 years over the previous 9, including 1 continuous year prior to application. There is also a pattern in terms of the general tenor of political debate about citizenship acquisition –in all cases, the political momentum is in the direction of 'raising the bar', and making the criteria more stringent.

Amid the global economic downturn, which gathered momentum throughout 2008, and against a backdrop of an increasingly high profile for issues of global justice, climate change, intergenerational justice and other factors relevant to migration debates, political discussion of citizenship acquisition in the Western democracies has often been rather simplistic. To an extent, this has been a deliberate strategy on the part of governments. Thus the current Labour administration in the UK has made clear its ambitions to 'simplify' immigration legislation. This is accompanied by the declared aim to affirm 'what it means to be British, what it means to be part of British society and, crucially, to be resolute in making the point that what comes with that is a set of values which have not just to be shared but also accepted' (Brown and Straw, 2007, p. 195). Whether this prioritization of a value-bound national identity amounts (in Mason's terms) to the goal of 'belonging to one another' – or rather, more modestly, to that of 'belonging to a polity' – is debatable. A key instrument is the notion of 'earned citizenship', applicable to migrants from outside the European Union.

In spelling out this notion, Gordon Brown presented it as 'a contract through which, by virtue of responsibilities accepted, the right of citizenship is earned' – a contract reflecting 'shared values that define the character of our country' (Brown, 2008). What is noticeable about the values evoked in the process – Brown singled out 'liberty', 'civic duty', 'fairness' and 'internationalism' – is that none of them seems, individually or in combination, either to be self-evident in terms of substantial meaning, or to be somehow exclusively or indeed distinctively British in character. If elaborated, they would run the risk of partiality and contestation. If not, they risk being platitudinous. Yet their intended stringency is clear. Thus their weaving into policy might seem to serve to raise the bar for citizenship acquisition, not so that the citizenship thereby acquired is more 'authentically British', in some or other plausible sense, but simply so that it is harder to acquire. Thus passport eligibility, previously granted after 5 years' residency, will now be subject to a further probationary period of 1–3 years. As one report puts it, applications 'will also face more tests to prove their worth. They will have to show that they are making efforts to integrate in British life, for instance by undertaking community work, running a sports team or play group, or serving as a school governor' (Morris, 2008). Citizenship will be earned in part by civic commitment. There is a clear republican undertone to these gestures, and perhaps a sense of envy of those modern democracies – such as France – whose constitutional status allows greater scope for the affirmation of a more explicit, established version of what it is to be a citizen, and the responsibilities this status brings with it.

The very notion of 'earning' (rather than acquiring) citizenship thus encounters pitfalls and indeterminacies highlighted throughout this book, particularly in the chapters by Shorten and Hampshire. Its appeal to cultural assimilation rests on the presumption of an evident, self-coherent, homogenized set of distinctive national values, which – even in the sparse, generalized language of legislation – is difficult clearly or convincingly to demarcate (see Beetham, 2008; Colley, 1999). It is equally hard to argue that adherence to such values is somehow preconditional for the sustenance or thriving of the contemporary nation state. As Hampshire points out, if assimilation really is considered to be a prerequisite for national cohesion, then for consistency's sake it would need to be achieved *prior* to residency, rather than taken as emerging after some stipulated period of post-residential absorption.

Appeals to standards of cultural allegiance and linguistic fluency are routine enough in policy statements, legislation and the rhetoric of

leaders on both sides of the Atlantic (see US Citizenship and Immigration Services, 2008, for full details of the current US criteria, and an affirmation of the 'basic values we all share as Americans'). Viewed in the warmest light, they reflect a pressing concern for the promotion of a citizenship embedded in the specificity of a historical community, its institutions, and its aspirations – and geared towards making the most of these in future (van Gunsteren, 1988, p. 735). Even so the fragile, slippery nature of such criteria, and the sense of a double standard whereby they apply more stringently to migrants than to natives, can make them seem blunt and misplaced. One way of putting this is that republican standards of active citizenship are regularly evoked in non-republican political and social circumstances. As van Gunsteren puts it, 'In a republic, citizenship is the primary office. It is at stake in all public action .... All public action can be judged in terms of its consequences for citizenship' (Ibid.). Yet such conditions, with citizenship paramount in public life, in civil society as in institutions and legislation, do not apply in the contemporary UK, or indeed in other modern liberal democracies. Such societies are typically marketized, individuated and stratified in ways in tension with – indeed incompatible with – republican ideals. Invoking a republican prioritization of the demands of citizenship in circumstances otherwise saliently not characterized by such bonds and affiliations will suggest to the critical that there is something politically rather too convenient and expedient about the rhetoric of 'earned citizenship' – and again, that the very notion has the effect of creating a tier of second-class citizens (those yet, or never, to make the grade), who serve as a source of income without being entitled to the affirmations of citizenship. Perhaps it is stating the obvious to say that the creation of robust citizenship of the kind that might plausibly be 'earned' – and *a fortiori* of citizenly virtues – requires wider social reform than that which might be addressed through citizenship policy itself.

For these reasons and others, the practical regulation and negotiation of criteria for admission, residency and naturalization is as contested as their treatment in theory. This book has explored these issues from a series of angles. In some respects the terrain surveyed is shifting fast, and may shift again in unpredictable ways. Yet in others, we find themes and questions that reverberate and endure – reflecting both the ongoing importance and desirability of citizenship, and the challenges it poses.

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