Dora Kostakopoulou

Why Naturalisation?

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ABSTRACT

This article focuses on the linkage between institutional and normative dimensions of 'Europeanisation' and examines the UK Government White Paper, entitled 'Secure Borders, Safe Haven' (Home Office, 2002). The article reviews the migration policy under the Blair government. It argues that all existing forms of definitions derived from naturalisation remain too national-statist orientated and therefore are limited in addressing the new challenges which are needed to transcend the nationality model of citizenship. The author suggests, based on the examination of naturalisation laws throughout the EU generally and particularly in Britain, an *automatic civic registration, conditioned on domicile* and the absence of criminal convictions only. The article illustrates how naturalisation laws, however evolutionary, place too much emphasis on social cohesion which they equate with belonging and citizenship - thus overlooking the fact that sense of belonging develops with inclusion in society rather than by declarations or language proficiency tests.

1. Introduction

Attention to citizenship has received a new impetus and reached an unprecedented scale in the last decade. Under pressure from processes of globalisation, an ever proliferating array of international institutions, the supranational design of the European polity and demands for cultural diversity and devolution

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of power, the traditional nation-state centred model of citizenship has been called into question. In the past few years, a handful of scholars have embarked upon the search of new forms of citizenship, which would replace the old model of singular membership in the national community (Held 1996; Soysal 1994).

For some, however, the fact that citizenship 'has burst its bounds' (Heater, 1999, p. 117) leads to conceptual deflation thereby rendering the idea of citizenship meaningless. In addition, those who cling to the national-statist tradition of citizenship argue that citizenship's 'outer edges' are likely to remain coterminous with those of the national state (Kymlicka, 1999, p. 12). Alternative possibilities are thus dismissed as weak, unstable, utopian or dystopian. But such accounts overlook the indeterminacy of citizenship. This is manifested by both the mutability of its content and its shifting boundaries over time. For although citizenship has been rooted in specific contexts and has been wedded to territorial nation-states, it can also be used to rethink the past, transform it and open up new sociopolitical practices which can best realise the promise of equal participation in the polity. After all, citizenship is not merely about rights (what you get), participation and duties (what you owe) and a sense of belonging (what you feel), but it is also the way in which people express their opposition to all the above.

Three alternative conceptions of citizenship have been suggested by the literature: postnational citizenship, transnational citizenship and multicultural citizenship. Advocates of postnational citizenship argue that the nationality model of citizenship has been superseded by a new type of membership based on deterritorialised notions of persons' rights. The codification and elaboration of human rights principles have led to the dilution of the 'natural dichotomy' between citizens and aliens (Soysal, 1994), thereby leading to the decline of national citizenship (Jacobson, 1996). Owing to migration and settlement, social and political memberships have been disentangled, and non-citizen residents enjoy socio-economic rights on the basis of legal residence rather than formal citizenship (Soysal, 1994). Transnational citizenship refers to the fact that international migration and the ensuing interactions between receiving and sending countries result in the creation of mobile societies beyond the borders of territorial states without dissolving these borders (Baubock, 1994). Multicultural citizenship, on the other hand,

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entails the aspiration that sociopolitical institutions and structures become more attentive to, and reflective of, the claims made by minority constituencies for inclusion and cultural recognition (Parekh, 2000).

Although these conceptions of citizenship are insightful and important, they, nevertheless, fail to put forward a model of citizenship that is not wedded to the nation-state. According to the post-national model, the legal discourse on human rights, whether individual or collective, has permeated national legal orders, thereby leading to an ever growing intensification of legal pluralism and to the emergence of deterritorialised rights. However, the state remains the body that is rightfully and legitimately charged with upholding human rights. In addition, since human rights are the outgrowth of commitments and recognition made by states, the latter have not relinquished their prerogative of defining the scope and the content of the rights granted to resident aliens. Human rights are thus not disconnected from ties to the state: deterritorialised human beings may not be territorially bound citizens, but they are territorially bound residents.

Transnational citizenship denies neither the existence nor the relevance of borders and nation-states. It pays attention to non-state networks and communities formed beyond the state and recognises that belonging is no longer exclusive in the sense that an individual should belong to one and only one state. It can be both multiple and partial. Multicultural citizenship, on the other hand, is sensitive to the differentiated character of plural 'magalopoleis' that are characterised by the incessant traffic of people back and forth. It aims at pluralising the nation and making ethnic migrant communities an integral part of a changing nation rather than going beyond it (Parekh, 2000).

In all three accounts citizenship remains a national-statist affair. Cultural diversity and the incorporation of newcomers and settlers of various origins is achieved by reconfiguring national citizenship; that is to say, by opening up existing arrangements, rather than by bring about real institutional change or developing new institutional designs. As a consequence, citizenship remains national in scope, even though the meaning of nationality may be in constant fluctuation of scale and shift between 'thin' and 'thick' conceptions. In practice too, national citizenship appears to be a 'permanently unfinished project' as states vacillate among the assimilationist, liberal procedural and multicultural models of incorporation.[1]

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One observes, for example, that periods of incremental expansion of migrants' rights are followed by a more cautious system of management and regulation which can equally involve a reversal of policy, a contraction of rights, and a revival of nationalist and restrictionist rhetoric.[2]

In this paper I argue that the reconfiguration of national citizenship has built-in limits. This is not merely because it is a configuration within limits, that is, the limits imposed by the nationality model of citizenship. It is also due to the fact that the latter has been stretched so significantly to encompass new ideas, incorporate new demands and respond to new developments that its elasticity has reached its limit. Hence, any attempt to modernise citizenship by excising the monolithic contours of the traditional national-statist logic has to raise the question that cannot be asked since it is constitutive of any discussion on citizenship: namely, to what extent is the nationality model of citizenship beyond reform? In the paper I investigate this question by focusing on one aspect of the personal scope of citizenship only, that is, naturalisation. Naturalisation appears in both theory and practice as self-evident. This is because the established nationality model of citizenship has naturalised naturalisation's own arbitrariness. I take issue with naturalisation and dispute its relevance in our contemporary plural and globalised era (Section 2). Instead of arguing for the liberalisation of naturalisation requirements and the ensuing pluralisation of citizenship, I seek to transcend the nationality model of citizenship by developing an alternative approach to naturalisation. This is then juxtaposed to the prevailing models and defended by considering the normative justifiability, coherence and empirical accuracy of existing requirements for naturalisation (Section 3). The Labour Government's recently proposed reform of nationality and citizenship law removes doubts about the need for an alternative approach, since it disproves arguments about the relaxation of naturalisation requirements and 'the trend toward deethnicisation in liberal states' (Joppke, 2001) (Section 4).

2. Naturalisation: Orthodoxy and Heterodoxy

Naturalisation is the process whereby a person is transformed from an alien guest to a citizen invested with the rights and privileges pertaining to indigenous subjects. It is a cornerstone of the nation-state, as it constitutes a 'rite of passage' (Hammar, 1990): through naturalisation 'disloyal' and 'untrustworthy' strangers, who may be subject to foreign allegiances, become formal

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members of the community within which they intend to stay on a permanent basis. If citizenship's role is to define 'those whom we regard as our own-those to whom we owe a special obligation because they are fully-fledged members of our society' (Legomsky, 1994, p. 291), then naturalisation is designed to ensure that settlers can become full-fledged members, assuming that they are deemed worthy.

The formation of the national state has not only necessitated the development of naturalisation policy, but has also placed a value on naturalisation itself. This is largely due to naturalisation's transformative effects. Since the 16th century, to naturalise means to make someone or something natural and familiar, to change in form, condition or qualities. Naturalisation thus encapsulates a politics of becoming. When religion was the main political organising principle, naturalisation signalled admission into a religious body by conversion from another religion.[3] Admission to communities of faith is normally reserved only for the initiated, that is, for those who have familiarised themselves with the holy books and the sacred traditions and have trained their spirit. Participation in ceremonies and rituals symbolically confirms a person's inclusion in the community. Otherwise put, communities of faith need novices and neophytes: the inclusion of the 'unfaithful' threatens to demote the sacred, unique and unalienable character of the religious community and to contaminate the purity of its faith.

Under the civic religion of nationalism (Anderson 1991; Greenfeld, 1996), border-crossers and new settlers, who are usually seen as transgressors of the sociopolitical order, undesirable and a threat to the identity of the nation, must pass the membership test.[4] They must share the identity of the community and must commit themselves to work towards the fulfilment of its earthly providential purpose, whatever this might be. Naturalisation is essentially a nationalising practice and has served as an assimilative device. Settlers are expected to accept national law and the public culture, to assimilate into the dominant culture, to think and act like a national. Through such requirements, the national community allegedly ensures its cultural survival: the preservation of its character, its rules of belonging and the strong communal ties. For this reason, host states have traditionally either explicitly required the transfer of cultural attachments and assimilation or procured these under a seemingly neutral commitment to liberal-democratic values. Applicants for

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naturalisation themselves rarely view naturalisation as a formality and an empty ritual. Depending on the specific political context, through naturalisation 'immigrants' will become 'ethnics' (Portes and Rumbaut, 1996, p. 93), may have to renounce ties with the home country and will commit themselves to residing permanently in the host country.[5]

The strong correlation between naturalisation and nationalisation is to be found in both statal nations, that is, where the state is seen as the representer of pre-existing, organic cultural community, and in national states, that is, where the nation is seen as a projection of the state. True, some states have been more jealous than others in setting out strict admission criteria. Much depends on their political culture and on the style in which national communities are imagined (Anderson, 1991, p. 6). But in all states political belonging has been conditioned on conformity, and ideology, exclusionary beliefs and racism have played a central role in the construction of modern citizenries and the formation of national identities.

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It would thus be a mistake to assume that only polities that conceive themselves as organic cultural entities marked by a common language take an interest in the cultural survival of the majority community. Communities of equal right-bearing citizens united by a shared set of political values have not been immune to 'nativist' fears. As Portes and Rumbaut (1996, p. 94) have observed, 'throughout the history of American immigration, a consistent thread has been the fear that the 'alien element' would somehow undermine the institutions of the country and lead it down the path of disintegration and decay'. Migrants are imputed with certain traits and intentions and such constructions of 'othersness' rarely fade away. Rather, they periodically gain prominence, as concepts such as citizenship, membership and nationality become contested and redefined. In this respect, Kohn's (1944) distinction between ethnic nationalism and civic nationalism and the corresponding juxtaposition of German Volkgeist and French Fraternite represent a false dualism[6]. Instead of representing radically different ways of conceiving political community, they should be located on a continuum of possible governmental responses to heterogeneity and difference. Indeed, political practice and historical experience confirm that the requirement of commitment to a certain set of values or political principles, as defined by the majority community, might not be considerably less exclusive than ethnocentric politics (Xenos,

1996). Modern 'civic nations' have adopted racially restrictive and exclusionary citizenship and migration policies, and 'daily plebiscites' rely on communal loyalties sustained by a 'rich legacy of memories' (Renan, 1990). Against this background, appeals to shared political principles can function just as well as appeals to cultural origins, shared past and inherited identities in creating 'us' versus 'them' distinctions and denouncing 'the other'.

The inevitable nexus between civic nations and majority culture is not effectively disrupted by appeals to constitutional patriotism, that is, to the procedural principles underpinning liberal democratic states. Habermas (1992, 1995, 1996, 1998) himself concedes that universalist principles have a particularistic anchoring: they are situated within the horizon of shared memories and common historical experiences, make sense within this cultural horizon and are interpreted from the point of view of the majority culture.[7] Although Habermas' theoretical schema is praiseworthy since it combines respect for normative political principles with communal belonging, thereby leading to a 'thin' version of nationalism, it, nevertheless, highlights the limits of post-nationalism; that is, the difficulty in disassociating modern political communities from their preexisting cultural heritage and the myth of more or less cohesive units with a shared historical destiny.[8] In this respect, any attempt to found polities on covenants entailing a shared and rational choice of universally valid principles misrepresents historical and political reality.

There is another reason as to why naturalisation cannot be detached from nationalising impulses even within civic territorial nations. Civic nationalism is underpinned by and propagates a conception of culture as an atomised thing with mutually limiting boundaries.[9] Accordingly, cultural survival becomes a central preoccupation of civic national states (Kymlicka, 1995). Cultures are seen as endangered species that must be defended - and not as changeable, renegotiated and reconstructed creations susceptible to and enriched by external influences, internal reflections, struggles and collisions. Since cultural survival (-and not cultural development and change) is taken to be both a norm and an expectation, then lawfully admitted newcomers of any nationality can only become 'true naturals' when they give their allegiance to the values animating communal life.

Commitment to the nation's public values, a willingness and ability to join the social system as whole by working diligently to learn about the history

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and political institutions,[10] has been the norm-dictated optimum within states. Naturalisation laws serve to unite the national community, to strengthen its identity and revitalise the values of loyalty, allegiance and of individual sacrifice for the common good. This, in turn, is seen to enhance the symbolic significance of citizenship. From this standpoint, any relaxation of naturalisation requirements is often seen to lead to the devaluation of citizenship.[11] As Legomsky (1994, p. 292) has remarked it, 'both the nature and the value of the citizenship bond might depend also on the way in which citizenship is acquired. One who acquires citizenship through naturalisation might value the resulting status as a hard-earned reward for the time and effort invested in studying the English language, American history and civics. The sense is one of achievement, of the culmination of a long process. Moreover, as with marriage, one might derive great personal joy from the very act of publicly proclaiming undying love and permanent commitment.'

Naturalisation thus has more to do with 'identification' and the old logic of 'assimilation', than with citizensisation,[12] that is, the transformation of subjects into full participants in self-government. What states expect of applicants for naturalisation is primarily fidelity of allegiance, rather than participation in the socioeconomic and political life of the community. Because naturalisation is a symbol of nationhood and a medium for the integration of the political community, any attempt to squeeze the ethnic element out of it, by confining naturalisation requirements to a simple residency qualification is bound to generate reactions.[13] Whereas ethnonationalists would oppose such a reform on the grounds that it undermines the cultural identity of the community and the shared conception of national purpose underpinning it,[14] civic nationalists would argue that a de-ethnicised system of naturalisation would be insufficient in ensuring the integration of the community, since it is bound to render its identity diffused. From this it follows that not only it is difficult for naturalisation law to go 'multicultural', but a 'de-ethnicised' naturalisation law would be an oxymoron.[15]

Critics may object here that I dismiss the possibility of 'naturalisation without nationalism' rather quickly. After all, Baubock (1994, pp. 73-114) has advocated the 'egalitarian' strategy of making the transition to the higher status of citizenship an entitlement, thereby reducing the discretionary power of the authorities of the host state. In Baubock's schema, the right to naturali-

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sation is available upon request. This is justified on the grounds that automatic transition of resident migrants to full citizenship would deprive them of choice (Baubock, 1994, p. 98). In contrast to Baubock's optional naturalisation[16], Rubio Marin (2000) has defended the policy of granting automatic and unconditional national citizenship to resident migrants. Whereas both Baubock and Rubio Marin seek to reconcile nationalism with liberal democratic norms by keeping nationality relevant and at the same time making it as inclusive as possible, I believe that such strategies constitute ephemerally corrective and necessarily imperfect solutions to the challenges of political inclusion and difference. Owing to the weight of its past and its symbolic significance highlighted above, even 'thin' naturalisation will continue to be rooted in and be configured by ethnicity, thereby making any claim to inclusivity either spurious or temporary. Indeed, a political risk associated with 'thin' naturalisation is that it may thicken over time. Politicians interested in re-election might be tempted to introduce additional and stricter requirements thereby capitalising on popular fears about 'cultural survival' and 'inassimilable aliens'. By so doing, they could generate a renewed interest in the constitution of ethnic identity and in the community's rich repertoire of historical memories. Such a possible re-ethnicisation of naturalisation would not be something new. Similar fluctuations and shifts have occurred in citizenship and migration laws, owing to a variety of political imperatives, in most states. Rogers Smith (1997) has observed, for example, that each period of significant reform and liberalisation of citizenship law in the US has been followed by a period of reaction and inegalitarianism.

Against this background, it seems to me that the alternative option is the less obvious possibility of pronouncing naturalisation an outdated institution, a troubled institutional reality and an anomaly in plural states. The contradiction between the inherited institution of the naturalisation on the one hand, and the needs of contemporary plural and globalised environments on the other, could be resolved by replacing naturalisation with a system of automatic civic registration, thereby transcending the nationality model of citizenship. It is perhaps appropriate for such a model that is striving to avoid the monolithic logic of the nation-state and places the centre of gravity on democracy and the notion of engagement in common venture - as opposed to nationality and a sense of shared life or a shared identity, or shared values, to make domicile and absence of serious criminal convictions the only

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requirements for admission to full membership. Resident migrants wishing to 'opt-out' from automatic citizenship could repudiate it via a declaration.[17] No doubt, this alternative approach would require the reflexive transformation of existing national conceptions of group membership and a post-conventional understanding of citizenship in contemporary plural and globalised states. But it would also make democratic theory 'go postnational'. In the following section, I will flesh out and defend the civic registration approach by considering the existing requirements for naturalisation and examining the extent to which these can be justified on the basis of the normative principles underpinning liberal democratic polities.

3. Justifying Naturalisation Requirements

How convincing is the normative and political justification of the requirements set by naturalisation laws? What can states legitimately expect of and impose on aspiring citizens? And further, what kind of arrangements and procedures would be worthy of the allegiance of applicants for formal membership? In this section, I will attempt to answer these questions by examining the various requirements set by naturalisation laws. Scrutinising the normative justifiability, the philosophical coherence and the empirical accuracy of the assumptions underpinning naturalisation requirements is not an easy task. This is primarily because naturalisation laws are hybrid constructs, that is, they entwine legal rules concerning eligibility for naturalisation with social expectations often associated countries' nationality traditions and official representations about the behaviour, traits and attitudes of migrants.[18]

Generally speaking, existing naturalisation requirements can be justified on the basis of three models; namely, the libertarian, republican and communitarian models (see also Schuck, 1994). Certainly, these models do not exist in a pure, clearly distinguishable form in individual countries.[19] Rather, they often overlap and may be interwoven in such a way as to create a plural paradigm that is tension ridden. Nevertheless, the typology is useful in that it reveals where the centre of gravity lies in various naturalisation laws and how this relates to existing nationality traditions and other political imperatives. It also allows me to compare and contrast the option of civic registration mentioned in the previous section.

The libertarian model centres on the calculation of the relevant costs and benefits associated with the admission of applicants into the demos. In this

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respect, it posits relatively easy naturalisation conditions, such as residency and proof that the applicant possesses the necessary skills, knowledge and experience required for meeting the needs of the host society. Accordingly, naturalisation is not seen as a membership test. Rather, it functions as a sieve which filters out population movement and enables the host community to retain those with the skills, knowledge and qualifications that are most likely to make economic and social contributions to society.

The republican model views polities as communities of values sustained by a notion of civic duties and engagement in the political life of the community. Accordingly, emphasis is put on political participation. Applicants for citizenship should embrace the civic republican ideal of commitment to the pursuit of public good without necessarily abandoning their particular ethnic identifications and cultural commitments. In other words, aspiring citizens must be patriots, rather than 'ethnics'. On this account, it is reasonable to require members to swear an oath of allegiance to the constitution, to fulfil residency requirements, to test their ideological beliefs, to display a good command of the constitutional history and the language of the host state and most probably, albeit not necessarily, to renounce all foreign allegiances.

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In contrast, the communitarian model puts emphasis on the maintenance of the community's identity, as it has been traditionally defined by the majority community. Naturalisation is a nationalising device: the authorities have wide discretion, applicants have to meet rather strict conditions and must conform to demands for cultural assimilation. The latter may be justified on various grounds. One possible justification may be that communities are essentially communities of trust and people are motivated to assist those who they feel belong or can belong to the community. In addition to this motivational argument, one might prefer to draw on cultural arguments about the constitutive role of culture in generating loyalties and sustaining social relationships. 'Thick' naturalisation could also be justified on intuitive grounds: people intuitively think that the national community resembles a club with predefined membership, which in turn, implies special obligations, including the obligation of sharing and cherishing the common culture. Accordingly, the communitarian model entails strict residence requirements, an unconditional display of loyalty to the state, which should override other loyalties

(Smith, 1971), language skills, knowledge of the society and its history, good character provisions and citizenship ceremonies.

Table 1: A Typology of Naturalisation Requirements

	Libertarian	*Republican*	*Communitarian*	*Civic Registration Approach*
Residency requirements	Low to Medium (3-7 years)	Low to Medium	Strict (8-14 years)	Low (2-3 years)
Allegiance to Crown/ Parliament/ Constitution	Possibly	Yes	Yes	No
Citizenship Ceremonies	No	Yes	Yes	No
Good Character/Sufficient Income	Possibly	Yes	Yes	No
Absence of criminal record	Yes	Yes	Yes	Yes (serious offences indicating propensity to reoffend)
Ideology	No	Yes	Yes	No
Knowledge of Society	No	Yes	Yes	No
Language Skills	Yes	Yes	Yes	No
Acceptance of Dual Citizenship	Possibly	Possibly	No	Yes
Language Classes	Possibly	Yes	Yes	No
Citizenship Classes	No	Yes	Yes	No

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One observes that the only two requirements on which all models converge are residency and the absence of criminal record, even though considerable divergence may exist over both the length of residence required for formal political membership and the operationalisation of the 'absence of criminal record' condition. Residence generates entitlements owing to the participation of people in a web of social interactions and the sense of 'rootedness' associated with home ownership, business ownership, employment, participation in civil associations, family ties and schooling. De facto social membership and partial de jure membership in the social and civil spheres make resident non-nationals stakeholders in the running and the future of the community, thereby strengthening their claims for political inclusion. Such claims cannot be successfully resisted by appeals to democracy. Democracy requires inclusion (Dahl, 1989) and equal participation of all those affected by governmental policies in processes of policy formulation and implementation. This translates in low residence requirements, ranging from two to three years. Claims to political inclusion are generally resisted by invoking arguments that configure democracy by nationality and accentuate national conceptions of community and identity. It is often argued, for example, that one does not become a citizen by simply inhabiting place (Miller, 1996, 1998; Schnapper 1997), since there is a shared set of norms, values and cultural practices which form the fabric of a community and give meaning to life projects. Residents must share these commitments if they wish to become full members. From a communitarian point of view, only prolonged residence will ensure that an individual shares the national identity that the polity purports to reify. In contrast, the libertarian and republican models have more relaxed residency requirements (see Table 1 above). After all, it is true to say that individuals demonstrate their commitment to and participation in the life of the polity by the very acts of applying for naturalisation and passing the necessary tests.[20]

Generally speaking, absence of criminal record is regarded as evidence that the aspiring citizen has a good character, even though in certain countries, such as Australia and France, absence of criminal record and good character represent distinctive requirements for naturalisation. In the UK and Ireland, naturalisation applicants must have a good character and in Portugal must be 'morally and civilly fit'. In Sweden, the applicant must lead a respectable life manifested in the payment of taxes and maintenance. Evidently, 'good

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character' is an abstract notion that may be subject to various interpretations. Historically, the test of 'good character' succeeded religious tests in naturalisation laws. The British naturalisation laws of 1740 and 1761, for instance, contained religious tests and the 1740 law in particular prohibited the naturalisation of Catholics. The first US naturalisation law of 1790 replaced the religious test with a test of good character as a prerequisite for US citizenship (Ueda, 1980). In most countries, absence of criminal record signals that the applicant has a good character. However, even this more precise requirement can have exclusionary effects depending on how strictly or liberally it is interpreted. For example, in Austria naturalisation is refused if an applicant has been subject to a prison sentence of three months. Although relatively minor offences and past convictions can by used to exclude people under the republican and communitarian models, under the civic registration approach an applicant would be refused political membership if (s)he represented a genuine and sufficiently serious threat to the requirements of public policy. Previous criminal convictions constitute grounds for refusal if they indicate propensity to reoffend or represented punishment for abhorrent offences, including war crimes and participation in organisations carrying out violations of human rights. On this account, the crucial question would be whether an aspiring citizen constitutes an actual and serious threat to the interests of the community.

Naturalisation oaths and citizenship ceremonies are clearly favoured by the republican and communitarian models. They rest on two assumptions. First, the 'resident alien' must declare his/her allegiance to the sovereign monarch, constitution or the state. Secondly, (s)he must give formal and public expression to his/her willingness to obey the laws, share the civic values and to further the common good. The roots of naturalisation oaths lie in medieval Europe, in the 'fealty' owed by the vassals to the feudal lord and by the lords to the king.[21] For the king was the supreme feudal lord; all the rest were his fideles, that is, his faithful. The obligation of fidelity and service owed to the lord was manifested in a public act known as homage and the taking of an oath upon a book. In the ceremony of homage, the inferior pledged to follow and obey his superior lord, while the lord promised to cede property and jurisdictional liberty to the vassal. In the hierarchical feudal pyramid, everyone born in the King's 'ligeance' owed permanent and personal allegiance to the King (Salmond, 1902, 48-50). Alien subjects coming from friendly

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countries owed 'local' allegiance to the king so long as they remained within his 'ligeance'. And although they had the same obligations as natural subjects, they could terminate the bond of allegiance and free themselves from the fealty owed to the sovereign lord. The formation of the modern state changed the hierarchical network of interconnections between greater and lesser lords and the personal, almost clientalistic, relationship of trust and loyalty between superiors and inferiors, but it did not alter the obligations of dutiful respect, obedience and service pertaining to this bond. It conceived of people as liege men (homo ligeus) who would uncritically accept governmental dictates on the basis of national identification and trust, and foreigners wishing to be subjects of a state's jurisdiction were bound to render their allegiance in the form of special appeals to the King, allegiance to the Crown and finally, to the constitution and the state.

It also required the renunciation of foreign allegiances. In Hobbesian terms, who could obey two masters? In a world dominated by the ideal of monopatride citizens and the norm of unitary, overarching and unconditional authority of the state, dual citizenship was clearly an anomaly and a threat to state sovereignty. This norm was encapsulated by the 1930 Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws and its preamblic reference that 'it is in the interests of the international community to secure that all members should recognise that every person should have a nationality and should have one nationality only' (cited in Koslowski, 1998, p. 742). Similarly, the Council of Europe's 1963 Convention on the Reduction of Cases of Multiple Nationality enshrined the principle that acquisition of one nationality comes at the cost of losing the previous nationality. However, since 1980s there has been increasing acceptance of the multiple identities that individuals may have and the multiple connections with more than one jurisdictions. This is attested by reforms of nationality laws incorporating provisions on dual citizenship in several European states and the 1997 European Convention on Nationality adopted by the Council of Europe. The latter legitimises dual citizenship without abrogating the 1963 Treaty. Conflicts of laws concerning taxation, family law issues, voting, inheritance and military service can be tackled via multilateral agreements concluded by the states. As the international norm against dual nationality is called into question and state co-operation increases via processes of intergovernmental co-ordination and/or supranational harmonisation of legal regimes and policies, Roosevelt's

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remark that 'the men of German blood who have tried to be both German and Americans are no Americans at all, but traitors to America and tools and servants of Germany against America' (quoted in Portes and Rumbaut, 1996, p. 196) sounds obsolescent.

In addition, it can be argued that the oath of allegiance and the obligation to defend and support the constitution have more symbolic than real significance. Abiding by the laws of a country is an obligation that both permanent and transient residents unreservedly and voluntarily undertake. If this is the case, then the making of such an obligation which is freely undertaken by both aspiring citizens and residents alike constitutive of admission to citizenship is superfluous, unless of course it serves other non-functional purposes, such as forging cultural attachment to the nation, however this might be conceived of (see section 2 above). Similarly, the declaration of personal attachment to the community in citizenship ceremonies neither enhances the commitment made by naturalised citizens nor gives added value to citizenship. Permanent residents share the same commitment to the country and have the required long-term view. In addition, people's identities may remain divided irrespective of their legal status (Carens, 1998). Furthermore, residents granted citizenship via a simple certificate issued by the Home Office cannot be regarded to be less committed, less public-spirited and, in effect, worse citizens that those who have participated in citizenship ceremonies.

In this respect, it can be argued that both naturalisation oaths and citizenship ceremonies serve to accentuate the nationality of citizenship. Through them the 'nation' reaffirms its existence as a community of ideas, culture, meaningful ties, memories and hopes (Withol de Wenden, 1998, pp. 85-86). As the community of citizens welcomes new members, it momentarily attains its (illusionary) unity and a glimpse of its transcendental, almost organic nature. The performative act of the oath in a public ceremony, the 'declaration of true faith and allegiance' to the country instantiates the national spirit of a community unified in a celebration of civic virtue and national pride.

If I am correct on this, then oaths and ceremonies have no functionality in our era. Nor can they be justified on the basis of appeals to normative political principles. Rather, their role is to elicit the applicant's commitment derived from an emotional attachment to a shared identity as well as to an abstract set of principles. Being an incident of nationality, oaths and ceremonies have

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thus been invested with symbolic value as they come to stand for and represent a past associated with unconditional authority, the uncontested primacy of domestic political allegiance, affective ties of national belonging, and the celebration of admission into unique cultural, emotional and spiritual communities, akin to religious conversion in communities of faith. From this it follows that any attempt to modernise citizenship, by rendering it multicultural and de-ethnicised, must re-examine the appropriateness of oaths and ceremonies in contemporary plural and globalised environments.[22]

If oaths and ceremonies constitute relics of the past, requirements, such as knowledge of the host society, its constitutional history and its language could be defended on the grounds that they prepare naturalisation applicants for a better future. Education in history, civic culture and the organising principles of the host society is seen to facilitate the integration of the naturalised citizen into the fabric of society and the employment market. But how much knowledge about the society does one need to have in order to pursue an economic activity as an employed or self-employed person, to pay taxes locally and nationally and to develop ties with his/her neighbours and colleagues? More importantly, should we conclude that non-naturalised residents are less knowledgeable about society, less committed and, therefore, less integrated that naturalised citizens? The fact that in reality naturalisation demands nothing more than a rudimentary level of knowledge raises doubts about the accuracy of such a conclusion. And yet acquiring this rudimentary level of knowledge is considered to be crucial not only for integration, but also for enhancing citizenship capacity and promoting sound political judgement.

On closer examination, the belief that knowledge about the history and civic culture of a country fosters citizen participation rests on a partial and flawed assumption about the applicants' knowledge and capacities. Foreign nationals are seen as ignorant and incapable of exercising wise political judgements even though their prior exposure to a different history, political system and civic culture at home enables them to make comparative political judgements and more mature reflections on existing principles and traditions. The empirical accuracy of the latter argument has been manifested by the fear about migrants' political radicalism that has marked US immigration law and policy: migrant workers were seen to 'transport the 'virus' of socialist ideas that

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threatened to undermine American democratic institutions' (Portes and Rumbaut, 1996, p. 97). Knapp (1996) has correctly observed that it is unreasonable to equate the process of naturalisation itself with some kind of enlightening opportunity. It is also unreasonable to believe that naturalisation provides the only medium for the acquisition of knowledge about a country; information can be derived from reading newspapers of both the host and home countries, watching television programmes, participating in discussions with co-ethnics and nationals, and so on. In fact, participation in daily life and reflexive social co-operation may be more effective means of knowledge acquisition than compulsory attendance in citizenship classes. Furthermore, As Carens (1998, p. 142) has observed 'the knowledge required for wise political judgement is complex, multifaceted and often intuitive. It is not something that can be captured on a test of this sort. Moreover, we know that formal tests of this kind always have built-in biases that inappropriately favour some class or cultural backgrounds over others, even if that is not intended'. In light of all this, the naturalisation requirement of knowledge of society cannot be convincingly justified on the basis of functional considerations, such as the promotion of integration and citizenship capacity. I would argue that such considerations conceal that the 'knowledge of society' requirement is a *non-functional*, nationalising practice, that is premised on the belief that 'resident aliens' must learn and appreciate the traditions and values of the majority community, and must earn their membership by showing commitment and working hard in order to familiarise themselves with the constitutional history and the nation's traditions.

Finally, linguistic competence has been a widely accepted requirement for naturalisation. Whereas from a republican point of view, linguistic competence is seen to encourage political participation and effective integration, communitarianism regards it as essential for the maintenance of national identity and culture. A purely functional justification of this requirement is provided for under the libertarian model of naturalisation: being able to communicate in the language of the host community increases employment opportunities and the social contributions that settlers make. Let me briefly reflect on these justifications. First, although it is undoubtedly the case that competence in language of the host society enhances participation in society and public life, republicans have not demonstrated that lack of linguistic competence undermines participation. Nor have they provided convincing evidence

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that lack of linguistic competence makes participation impossible. Indeed, a historical look at migration and settlement reveals that newcomers, having no or basic knowledge of the host language, have contributed effectively in both the workplace and society, and by speaking and writing in their home language they can be both active and concerned members of the community. Republican concerns about abstention of non-English speaking migrants from the democratic process owing to informational disadvantage are speculative and unjustified, particularly if one considers English speakers' abstention rates. Certainly, libertarians would be correct to point out the strong link between fluency in the host language and better employment opportunities, and migrants are acutely aware of this. For this reason, tuition in the host language should be available to all residents of the state, regardless of their legal status or their intentions with regard to citizenship.

However, it would be a misleading generalisation to argue that language acquisition increases the contribution that one makes, for much depends on the sphere in which the contribution is made. For instance, for a painter or a novelist writing in Urdu acquisition of the host language bears no relation to his/her creative output, even though it will probably affect the dissemination of his/her artistic work. Similarly, in the employment sphere much depends on the nature of the post concerned: in sectors of employment based on manual labour linguistic competence is an irrelevant consideration. For this reason, that European law has stipulated that mobility of labour in the European internal market cannot be restricted via the imposition of language tests, unless such tests are required by the nature of the post.[23] Linguistic tests often serve as a means of direct discrimination and exclusion by denying Community nationals equal access to employment.

The communitarian model regards linguistic competence as an obligation of citizenship and a sign of allegiance to the nation's identity. This coheres with assimilative strategies pursued by modern states. Until recently, national homogeneity required linguistic homogeneity. In countries where monolingualism is the hallmark of national identity, such as the USA, 'the acquisition of non-accented English and the dropping of foreign languages represent the litmus test of Americanisation' (Portes and Rumbaut, 1996, p. 194). 'Immigrants were not only compelled to speak English, but to speak English only as the prerequisite of social acceptance and integration' (Portes and

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Rumbaut, 1996, p. 196). Speaking the home language was seen as unpatriotic and a sign of intellectual inferiority. At the turn of the century, bilingualism was demonised and scholars endeavoured to prove the scientific link between lower intelligence and lack of fluency in English. Fortunately, beliefs have changed and bilingual kids no longer have the burden of demonstrating that they are neither confused nor mentally impaired via their academic achievements. Despite official acceptance of multiculturalism, however, multilingualism is still considered to be a threat to the ethos of nationhood. Notably, in 1997 the US Commission on Immigration Reform (1997, p. 7) stated that 'the nation is strengthened when those who live in it communicate effectively with each other in English, even as many persons retain or acquire the ability to communicate in other languages'. True, this statement represents a marked contrast with Roosevelt's condemnation of German-American biculturalism: 'we have room for but one language here and that is the English language; for we intend to see that the crucible turns our people out as Americans, and not as dwellers in a polyglot boarding-house; and we have room for but one loyalty, and that is loyalty to the American people' (quoted in Brumberg, 1986, p. 7). However, despite their differences both statements converge on the assumption that linguistic homogeneity is the cornerstone of nationhood and cultural identity. It would thus be a mistake to assume that in contemporary plural states the homogenising impulses of nationalism have faded way. Rather, they are very much alive. Communities are not relaxed: they fear difference. As such, they are preoccupied with stability. They tend to believe that integration is fragile and that the society will somehow disintegrate if newcomers and settlers do not speak the host language at home and in the public life and do not know the history and the nation's traditions. Such fears are appeased when aspiring members are seen to 'make the choice' to conform to the majority community's (partial) notion of national identity.

In light of this discussion, it seems to me that any argument postulating a trend toward de-ethnicisation in liberal states (Joppke, 2001, p. 437)[24] needs to reflect on the constitutive character of naturalisation per se for nationhood and collective identity. Naturalisation policy cannot be disentangled from nationalising practices, and its possible liberalisation cannot prevent its susceptibility to 'thickening' in particular historical and political conjunctures. Of course, this presupposes the substitution of linear, evolutionary accounts

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with analyses that are sensitive to the complexity, paradoxes and the differentiated results of reconstructed, essentialist national discourses. In the subsequent section, I will discuss the reconfiguration of British national discourse about citizenship and nationality and highlight the 'thickening' of naturalisation policy brought about by the Labour Government's White Paper 'Secure Border Safe Haven' (8 February 2002) and the Nationality, Immigration and Asylum Bill (12 April 2002).

4. Thickening Naturalisation Policy: David Blunkett's Vision of 'Integration with Diversity' in Britain

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The White Paper, entitled 'Secure Borders, Safe Haven'(Home Office, 2002a), constituted the second major review of migration policy under the Blair government[25] and was situated in a period characterised by increasing calls for a tighter rein on immigration. Although the White Paper was proclaimed to take the Labour agenda forward by 'offering a holistic and comprehensive approach to nationality, managed migration and asylum', in reality, it reaffirmed the government's commitment to migration control and introduced a thicker, communitarian understanding of national identity in law. As the Home Secretary, David Blunkett, stated, 'having a clear, workable and robust nationality and asylum system is the prerequisite to building the security and trust that is needed' (Home Office, 2002, Foreword).

The rationale of the White Paper needs to be understood with reference to the riots in Bradford, Oldham and Burnley in summer 2001, which official policy circles saw as signifiers of the absence of communal cohesion and trust among the various communities in Britain. In this respect, 're-building a sense of common citizenship' was perceived to be a remedy to the 'depth of polarisation' among the various communities (Home Office, 2001). Developing 'a sense of shared civic identity or common values' which could unite the diverse communities in Britain (Home Office 2002a, p. 10) and 'preparing people for citizenship' were thus seen as antidotes to the 'problem of integration' in multi-ethnic areas. What was clearly missing from such accounts was a consideration of the fact that 'integration' may fail, not because citizenship is not meaningful enough, but because citizenship is not a sufficient condition for 'integration' in a society that discriminates on the basis of morally indifferent differences. In such circumstances, direct action can be an effective means

of exposing structures of discrimination and enabling otherwise excluded voices to take part in the general political and cultural discourse and to suggest a redefinition of the terms of 'integration'.

Lord Rooker's statement in the House of Lords (JCWI, 2002b) is instructive: 'our starting point has been the development of a sense of belonging and community. Confidence in our identity and citizenship allows us to welcome those who come to the UK as refugees or legal migrants more readily. To give meaning and value to the acquisition of British nationality, I am confirming today that we will introduce a number of key reforms. There will be a new light-touch arrangement to ensure that those who take on nationality have the language skills and basic knowledge of our society needed to contribute fully. There will be ceremonies at which the confirmation of citizenship can be celebrated. We will modernise the oath of allegiance, to provide new wording to make clear the fundamental rights and duties of citizenship. It will be a citizenship pledge'.

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Accordingly, in the fields of citizenship and nationality, the White Paper proposed the modernisation of the current oath of allegiance, a citizenship pledge and the introduction of new citizenship ceremonies. According to national executives, these were designed to end the current 'mail order' approach to the acquisition of British nationality and to give symbolic significance to the acquisition of citizenship. As the White Paper stated (Home Office, 2002a, p. 34), citizenship ceremonies 'can have an important impact on promoting the value of naturalisation and immigrant groups welcome them'. The proposed citizenship pledge has been modelled on the current Canadian oath and is envisaged to mark individuals' formal membership in the British polity. Schedule 1, Section 42B of the Nationality, Immigration and Asylum Bill, which will substitute Schedule 5 of the British Nationality Act 1981 entails the pledge: 'I will give my loyalty to the United Kingdom and respect its rights and freedoms. I will uphold its democratic values. I will observe its laws faithfully and fulfil my duties and obligations as a British citizen'. Similar pledges are provided for British Overseas Territories Citizens, British Overseas Citizens and British Subjects. According to the Bill (Schedule, Section 42, subsections (1) to (5)), a person shall not be registered as a British citizen and will not be granted a naturalisation certificate unless (s)he has made the relevant citizenship oath and pledge specified in Schedule 5 at a citizenship cer-

emony. Local authorities may be required to provide specified facilities and to make specified arrangements in connection with citizenship ceremonies.

Naturalisation has also been conditioned on sufficient knowledge of English and sufficient knowledge about life in the United Kingdom (Part 1(1) of Bill 119, Home Office, 2002b). Notably, the linguistic competence requirement already existed under the 1981 British Nationality Act, but it was rarely enforced in practice. Both these requirements were justified as being instrumental in facilitating the migrants' 'integration' and full participation in society. Furthermore, the White paper proposed the updating of section 40 of the British Nationality Act 1982 concerning the deprivation of citizenship procedures in cases of deception, false representation or concealment of a material fact, such as past involvement in terrorism or war crimes and the right to appeal against a deprivation of citizenship order.[26]

The proposed measures aim at ensuring 'social integration and cohesion in the UK' by 'fostering and renewing the social fabric of our communities and rebuilding a sense of common citizenship' (Home Office 2002a, p. 10). As the White Paper (Home Office, 2002a, p. 28) stated, 'strong, cohesive and confident communities are the building blocks of a healthy society'. The requirements of knowledge of language and society 'would strengthen the ability of new citizens to participate in society and to engage actively in our democracy. This will help people to understand both their rights and their obligations as citizens of the UK, and strengthen the bonds of mutual understanding between people of diverse cultural backgrounds' (Home Office, 2002a, p. 11). Clearly, integration issues are seen from the perspective of the majority community and that the development of 'bonds of mutual understanding' depends on the conformity of newcomers to the terms of integration articulated by the majority community. Community cohesion and commonality of citizenship are portrayed as ideals of citizenship without any serious reflection upon the troubled history and undesirable implications of such homogenising impulses. According to the Home Secretary, 'it is possible to square the circle. It is a 'two-way street' requiring commitment and action from the host community, asylum seekers and long-term migrants alike. We have fundamental moral obligations, which we will always honour. We must uphold basic human rights, tackling the racism and prejudice which people still face too often. At the same time, those coming into our country have duties that

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they need to understand and which facilitate their acceptance and integration' (Home Office, 2002a, Foreword).

By making knowledge of language and society prerequisites to naturalisation, the government does not only symbolically reassert its traditional sovereign prerogative of determining who will be included as a formal member, but it also uses the borrowed vocabulary of national communitarianism in order to promote its vision of integration and membership. Speaking English is thus seen as the bedrock of national identity: 'we also want the process to indicate that people are becoming part of the UK family - maintaining their own integrity, individuality and cultural identity, but having a basic knowledge of the language, a basic knowledge of the society and the ethics of the society that they are seeking to join. There is no compulsion to apply for nationality; that part is voluntary. The part that is not voluntary is having a knowledge of the English language.' (Lord Rooker, JCWI, 2002b).

In Blunkett's vision of Britain as a diverse yet cohesive nation, what matters is the nation's capacity to absorb or incorporate migrants by regulating their conduct and making them nationals, thereby enhancing the security and identity of the nation. Accordingly, emphasis is put on a 'top-down', authoritative construction of belonging. What is clearly missing from the White Paper is any consideration about the everyday processes in which people negotiate and construct their sense of belonging. Indeed, it can be argued that the White Paper entails an unwarranted simplification of the politics of belonging and citizenship. It does not only bracket issues, such as agency and what citizenship means from the perspective of the individual migrant, but it also conveniently overlooks that 'the rite to passage' into society and everyday experiences of non-belonging and discrimination shape one's attitudes to citizenship (Ong 1996). Experiences of racism, discrimination and xenophobia often generate feelings of 'partial belonging' or of 'non-belonging', since people are likely to develop a sense of attachment to the community only if they feel that it includes them.

More importantly, the Government made neither a systematic comparison between the existing pragmatic and informal approach to naturalisation on the one hand, and the proposed 'thickening' of naturalisation on the other, nor an assessment of the risks that the latter entails as regards the meaning of polity membership and the future of community relations. As the JCWI

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observed (2002a), such 'ill-thought changes to the system intended to instil Jacobin-style patriotic values will simply deter people from applying for citizenship without undermining their commitment to maintaining their lives in the UK. If this happens there will be no net gain for citizenship, but rather a sharper polarisation between those who have been awarded the citizens' badge of honour, and those who have abstained from the process'. Indeed, although the White Paper (Home Office, 2002a, p, 30) stated that, '[. . .] British citizenship should bring with it a heightened commitment to full participation in British society and a recognition of the part which new citizens can play in contributing to social cohesion', it contained no proposals concerning the reinvigoration of institutional capability, tackling discrimination or encouraging critical citizenship at local or national levels. It was premised upon a very narrow vision of citizenship, whereby cultivating a sense of belonging is seen as a precondition of political participation. Promoting symbolic gestures of belonging, such as the taking of oath and pledge in citizenship ceremonies, takes priority over encouraging the residents' right to participate in decisions that affect their lives. There seems to be little recognition of the fact that permanent residents have already a place and a voice in society and public sphere by virtue of their work, their contributions to the collective burden and social interactions, and that acquiring British citizenship may be a means of obtaining a certificate and a passport verifying just that. In other words, British citizenship may be declaratory, and not constitutive, of the migrants' membership, their commitment to the country and their interest in the socioeconomic well-being of the community.

Another sign of Blunkett's contestable image of integration and political belonging constitutes the section of the White Paper concerning marriage and family visits. In particular, the White Paper's (Home Office, 2002a, p. 99) statement that 'as time goes on, we expect the number of arranged marriages between UK children and those living abroad to decline. Instead, parents will seek to choose a suitable partner for their children from among their own communities in this country' arose criticism. The Joint Council for the Welfare of Immigrants (2002a) expressed its concern about the 'unwarranted disparagement of the integrity of individuals who enter into marriages abroad with non-British citizens'. By encouraging the communities with a culture of arranged marriages to look to those already resident in the United Kingdom, the Home Office does not only give the impression of playing the role of a

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marriage bureau, but it perpetuates the view that arranged marriages to persons abroad are essentially undesirable.

In an attempt to hinder fraudulent marriages, the White Paper proposed an increase in the probationary period for leave to remain on the basis of marriage from one to two years, without due consideration about the likely impact of such a provision upon the relationship between partners and upon family life. It also proposed the introduction of a new 'non-switching' provision to prevent people who have entered the UK for six moths or less through a different category from applying to remain in the United Kingdom on the basis of marriage. But such a rule, if implemented, is likely to 'impose hardship and unnecessary expense on many couples that are unhappy about the prospect of a potentially prolonged separation in the early months of their married life' (JCWI, 2002a).

Overall, the proposed reforms cannot be said to decentre the ethnic component of national citizenship. Far from privileging the functionality of citizenship, the proposed reforms concerning naturalisation are based on a re-evaluation of the nationality aspect of citizenship and the reinvigoration of the sense of national identity. The government presumes that the credibility of its policy in the fields of nationality and citizenship will improve by combining republican and communitarian patterns of naturalisation (see Table 1 above) and by introducing a thicker notion of civic membership and belonging. The proposed legislation follows the implicit premises of such a reasoning without examining whether the latter accurately reflects the reality it purports to define.

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Notes

1 On models of incorporation, see B. Parekh, 'Integrating Minorities in a Multicultural Society', in U. Preuss and F. Requezo (eds.), *European Citizenship, Multiculturalism and the State* (Baden-Baden: Nomos, 1998), pp. 67-86; T. Kostakopoulou, '"Integrating" Non-EU Migrants in the European Union', *Columbia Journal of European Law*, 8(2), 2002, 181-201, pp. 184-187.

2 Compare L. Morris, 'Britain's asylum and immigration regime: the shifting contours of rights', *Journal of Ethnic and Migration Studies*, 28 (3), 2002, 409-425.

3 In Donne, we find the statement 'persons . . . not naturalised by conversion from another religion to us'.

[4] Many have commented on the functional equivalence of religion and nationalism; See Anderson (1991) and Greenfeld (1996).

[5] This does not imply that their original ethnic identification will fade away. In reality, ethnic identities become stronger in reaction to the context of reception and treatment. On the process of reactive formation of ethnic identities, see Nathan Glazer, 'Ethnic Groups in America' in Berger et al. (eds.), *Freedom and Control in Modern Society* (New York: Van Nostrand, 1954).

[6] See R. Brubaker, *Citizenship and Nationhood in France and Germany* (Cambridge, MA: Harvard University Press, 1992). Compare also M. Ignatieff, *Blood and Belonging: Journeys into the New Nationalism* (New York: Farrar, Straus and Giroux, 1993) and T. Nairn, 'Demonising Nationalism', *London Review of Books*, 23 February 1993.

[7] I have elaborated on this in, 'Is there an Alternative to Schengenland?', *Political Studies*, 1998, 46(5), 886-902. See also Kostakopoulou, 2001.

[8] D. Miller (1995), Y. Tamir (1993) and N. MacCormick (1996) share this premise. Compare J. Waldron, 'Minority Cultures and the Cosmopolitan Alternative', *University of Michigan Journal of Law Reform*, 25, 1992, 751-93.

[9] Compare here the relational, adaptable and dynamic conception of culture postulated by post-structuralists and cosmopolitans alike. See also J.K. Cowan et al. (eds.), *Culture and Rights* (Cambridge: Cambridge University Press, 2001).

[10] This is what Justice Rehnquist stated dissenting in *Sugarman v Dougall* , 413 U.S. 634 at 661 and 658 respectively.

[11] P. Schuck argues that U.S. citizenship has been devalued because it is relatively easy to acquire, the rights and disabilities associated with it differ a little with those attached to the status of permanent residency, it is hard to lose once acquired and that those eligible for naturalisation seem unenthusiastic about applying for it; 'Membership in a Liberal Polity: The Devaluation of American Citizenship', 3 *Geo. Immigration Law Journal*, 1, 1989, p. 13.

[12] The term is borrowed from J. Tully, *Modern Law Review*, 2002.

[13] Habermas' model of constitutional patriotism would require toleration of dual citizenship, a residence requirement, and allegiance to the constitution. The latter would be manifested in the absence of criminal convictions, basic knowledge of the constitution and society, and the ceremonial oath of allegiance.

[14] Compare J.S. Mill, 'A System of Logic' in J.M. Robson (ed.), *Collected Works of J.S. Mill*, Vol. VIII (Toronto: University of Toronto Press, (1974) [(1843]).

[15] N. Glazer (1999) has observed that there is nothing multicultural in US naturalisation law which requires the applicants to swear an oath of allegiance to their new country.

[16] According to Baubock, 'we may speak of optional naturalisation as an individual

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right of resident aliens if a reasonably short period of legal residence is a sufficient condition for applying, if the new citizenship can be acquired by individual declaration or if the authorities have little discretion in rejecting applications'; R. Baubock, 'Citizenship and National Identities in the European Union', *Harvard Jean Monnet Paper*, 4, 1997.

[17] In the 1980s in France in the wake of restrictionist immigration measures, the argument that automatic citizenship would deprive second generation migrants of their consent was used in order to reform the law and to make the acquisition of citizenship by second generation migrants conditional upon a formal declaration of their wish to become French; R. Shor, *Historie de l'immigration en France* (Paris: Armand Colin, 1996), p. 280. The nationality reform materialised in 1993.

[18] Carens (1998) has put forward an argument for the separation of these.

[19] Schuck (1994) has noted that citizenship law is normative hybrid because it reflects a society that simultaneously and pragmatically embraces a variety of value systems which, when viewed abstractly, seem inconsistent with one another.

[20] In European Union's member states, the acquisition of long-term resident status ranges from two to three years (in Finland and Denmark respectively) to ten and fifteen years (in Portugal and Greece respectively). With respect to eligibility for naturalisation, first generation migrants must reside for ten years in Spain, Portugal, Greece, Luxembourg, Italy and Austria, whereas Germany and Italy require eight and seven years respectively.

[21] Smith (1997, p. 13) has noted that naturalisation law draws from feudal conceptions of subjectship which do not cohere with liberal understanding of citizenship. For example, it is based on the idea that 'it is natural to be subject to the ruler under whom one is born and that it is so natural that one is subject to that ruler for life'.

[22] My argument does not accord with Joppke's (2001, p. 444) argument that there is a trend toward 'de-ethnicisation' in liberal states.

[23] Article 3(1) of European Council Regulation 1612/68 on Free Movement of Workers (OJ Special Edition, 475 [1968] L 257/2). See also Case 379/87 *Groener v Minister for Education* [1989] ECR 3967, [1990] 1 CMLR 401.

[24] Joppke (2000) grounds this on the liberalisation in requirements for naturalisation and the provision of the right to citizenship to second and third generation migrants. On the latter, see R. Hansen and P. Weil, *Towards a European Nationality. Citizenship, Immigration and Nationality Law in the EU* (London: Palgrave, 2001).

[25] The first was initiated by the White Paper 'Fairer, Faster and Former: A Modern Approach to Immigration and Asylum', published on the 27th of July 1998 and culminated in the 1999 Immigration and Asylum Act.

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[26] See the amended section 40 of the British Nationality Act 1981, Nationality, Immigration and Asylum Bill, Part 1(4).

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