

Defending the Case for Liberal Anationalism

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Relationships are hardly ever one-dimensional. To insist that they are or to make unqualified judgements about them, be they positive or negative, is more often than not a sign of immaturity. They constantly evolve, may be bumpy at times and can even slip into completely unpredictable directions. Additionally, our perception, appreciation and enjoyment of them are variable; time and space mould as well as scold them. Uncertainty, unpredictability and complexity thus characterise all relationships. Amidst uncertainty and complexity, however, we take solace in some basic facts, such as that they work and that the unique history they generate gives us a fairly good idea as to what we can reasonably expect from them. If they do not work, are based on false premises and exhibit chaotic and repressive tendencies, then we should opt for disentanglement. This is precisely the argument I wish to make in this paper about a very important relationship that has shaped modern constitutional politics and political; namely, the relationship between liberalism and nationalism.

Studying the liberal-national nexus is far from an easy task. The contours of both ideologies remain somewhat fuzzy and their institutional manifestations have a fractal quality. The relationship itself has also been characterised by perplexity and ambivalence over time. An initial symbiotic relationship nurturing national liberation movements and constitutional initiatives in the 19th century became a contradictory and oppositional one in the first three quarters of the 20th century. As a result, liberals became extremely wary of even considering nationalism as an acceptable political ideology.¹ But in the 1980s and 1990s we witnessed their reconciliation: nationalism was rehabilitated as liberal nationalism. The latter became the perfect candidate for holding communities together, providing resources for identity formation, responding to injustices and for accommodating minority rights. Not only did the nation emerge triumphantly as the relevant community,² but it also became the benchmark against which other political communities, such as the Europe Union, had to be judged.³

Although liberal nationalism has had an irresistible simplicity, took community seriously and appeared to reconcile universal commitments with particularistic attachments, not everyone was convinced about the merits of, and the resources

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1. See, for instance, RE Goodin, P Pettit & Thomas Pogge, eds, *A Companion to Contemporary Political Philosophy* (Oxford: Blackwell, 1993) at 3.
2. Frederick Schauer, 'Community, Citizenship and the Search for National Identity' (1986) 84 *Mich L Rev* 1504.
3. See JHH Weiler, 'European Neo-Constitutionalism: In Search of Foundations for the European Constitutional Order' (1996) 44 *Political Studies* 517.

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entailed by, it. Critics diagnosed the exclusionary underside of liberal nationalism in the restrictive migration and asylum policies of the 1980s and 1990s, systemic discrimination in society and the metamorphosis of racism into cultural differentialism.⁴ In the 1990s, the atrocities in former Yugoslavia exposed the dark side of nationalism. Sadly, the unimaginable violence accompanying such events was toned down by their depictions as problematic manifestations of the uncivilised or unpolished Eastern nationalism.⁵ But 9/11 and the ensuing politics of (in)security made the distinction between Eastern exceptionalism and western nationalism untenable.⁶ Discourses about the ‘war against terror’ and ‘axes of evil’, laws of fear, extraordinary rendition, Guantanamo, detention without trial, control orders, increase in police’s stop and search powers, the creation of new offences, the legitimisation of discrimination on the grounds of nationality, ethnic origin and religion, the proliferation of databases and so on, all showed that nationalism can easily set in motion exclusionary and repressive practices that destabilise constitutional and democratic orders.⁷

Yet nationalism appears to be so entrenched in political life and discourse, that its illiberal face is often deemed to be an exception and unfortunate coincidence triggered by international terrorism. Alternatively, it may be depicted as the result of ill-thought policies which can be reversible.⁸ In what follows, I argue that liberal nationalism is conceptually flawed and politically illiberal. Illiberal tendencies are an integral part of it and these cannot be corrected by ‘taming’ unruly nationalism or by articulating ‘benign’ adaptations of it. Because the liberal and illiberal faces are interwoven in complex ways, my suggestion is to look far ahead and beyond it.

The territory may be uncharted, but a commitment to a pro-human welfare orientation could open the way for separating liberalism from nationalism and aligning the former with critical democratic politics. The challenge, as I see it, is to articulate a liberal anationalism which by affirming equal human dignity and the importance of non-domination could sustain inclusionary and democratic communities. Political life would benefit from a changed course and a progressive political narrative. By affirming the political culture of respect for human beings, the principles of autonomy, liberty and non-discrimination, the right of dissent and the importance of placing constraints on the exercise of governmental power, liberal anationalism would transform polities into ‘communities of

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4. On this face of racism, see Etienne Balibar & Immanuel Wallerstein, *Race, Nation, Class: Ambiguous Identities* (London: Verso, 1991); AP Taguieff, ‘From Race to Culture: The New Right’s View of European Identity’ (1994) 98-99 *Telos* 99.
 5. For a discussion of the problems entailed by the dichotomy, see B Yack, ‘The Myth of the Civic Nation’ (1996) 10(2) *Critical Review* 193.
 6. Compare the results of the CHALLENGE Project co-ordinated by E Guild, D Bigo, RBJ Walker & S Carrera at the Centre for European Policy Studies, CEPS, Brussels.
 7. The challenge for democratic politics, therefore, is to avoid becoming enclosed in unhelpful representations, such as progressive, civic-territorial western nationalism on the one hand, and regressive, Volkish Eastern nationalism, on the other. Compare M Ignatieff, *Blood and Belonging: Journeys into the New Nationalism* (New York: The Noonday Press, 1993); E Balibar, *We the People of Europe? Reflections of Transnational Citizenship* (Princeton, NJ: Princeton University Press, 2004).
 8. Another approach would be to view the illiberal face of nationalism as the manifestation of a systemic ‘zig-zag’ that simply requires tighter supervision and control.

concern and engagement⁹ brought about by the interactions of, and connections among, people who treat each other, and are treated by socio-political institutions, as equal partners and respected participants.

The subsequent discussion is structured as follows. In the subsequent section, I discuss the relationship of bedfellowship and betrayal of liberalism and nationalism, while in section II.B I examine the ascendancy of liberal nationalism. The problems and contradictions of the latter are discussed in section II.C, which is then followed by the advocacy of their disentanglement and the political transcendence of national particularism (sections III and IV). The last section of the paper contains a brief reflection on the implications of my proposal and the concluding remarks.

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I. The Modulations of Liberal Nationalism

A. Bedfellowship and betrayal

Not only did nationalism co-exist happily with liberalism for more than 100 years (1750-1850), but it was also viewed to be a necessary condition of the latter. During that period, nationalisms of liberation and unification, that is movements seeking to promote individual autonomy and freedom by making aspirations for collective self-determination a reality, were prevalent.¹⁰ Those struggles against absolutism, occupation, oppression and fragmentation nurtured popular sovereignty. Peoples conceived of themselves as members of organised, territorially bound communities entitled to self-government by means of a state.¹¹ The notions of ‘we the People’ and ‘our patria’ not only inspired a patriotic attachment which could easily lead to self-sacrifice,¹² but also grounded a new political identity, common institutions and terms of public engagement that preserved Enlightenment’s liberal ideals. Sovereignty lay in the nation which was imbued with the ‘chosen-ness’ that previously applied to the crown.¹³ This new imaginary ‘we’ was glued together by the ideals of national independence and freedom, irrespective of existing differentials as well as geopolitical forces of fragmentation.

But the national ‘we’ was also depicted to be eternal and anthropomorphic, that is, prone to growth, different levels of achievement and decay. This is because the legitimization of the modern territorial state required the perfect alignment of the boundaries of the nation with the boundaries of the state and the invention of narratives about the greatness, uniqueness and destiny of the nation.

9. D Kostakopoulou, ‘Towards a Theory of Constructive Citizenship in Europe’ (1996) 4(4) *J Political Phil* 337 at 343; D Kostakopoulou, *Citizenship, Identity and Immigration in the European Union: Between Past and Future* (Manchester, UK: Manchester University Press, 2001).

10. See Balibar, *supra* note 7 at 46.

11. E Kedourie, *Nationalism* (Oxford: Blackwell, [1961], 1993).

12. EJ Hobsbawm, *Nations and Nationalism Since 1780* (Cambridge: Cambridge University Press, 1990) at 33.

13. Anthony Marx, *Faith in Nation: Exclusionary Origins of Nationalism* (New York: Oxford University Press, 2003) at 195.

However, neither the boundaries of the state nor the boundedness of the nation were historical facts; instead, they had to be constructed through a combination of political actions, including wars and internal persecutions, and ideological narratives which crystallised conceptions of belonging and galvanised elites and people to action against heretics and enemies of all sorts.

Anthony Marx has eloquently revealed the exclusionary origins of Western nationalism and the false conflation of nationalism with liberalism and democracy.¹⁴ By uncovering the superimposition of ‘democratic inclusions on forgotten exclusions’¹⁵ in France, England and Spain, he has shown the links between the first, allegedly, liberal phase of nationalism and the illiberal one associated with German romanticism and the emergence of a cultural nationalist paradigm among conservative elites in the second half of the nineteenth century. Herder (1744-1803) and Fichte (1762-1814) shifted the centre of gravity from liberty, equality and fraternity to prepolitical commonalities, such as language and culture, tying together the members of a nation.¹⁶ Although neither of them advocated an exclusive, aggressive and xenophobic nationalism, the new emphasis on elements embodying the spirit of unique people (the *Volkgeist*), the emotional and the heroic proved useful to authoritarian conservative groups at the close of the nineteenth century.¹⁷ Socialists, including Rosa Luxemburg, called into question the premises of the concept of the nation; in their eyes, it was a bourgeois concept prone to creating divisions. However, this view did not capture the mainstream. Conservatives capitalised upon nationalism and communities of autonomy, choice and liberty were transformed into communities of destiny (or fate), loyalty and overriding identification with a nation fighting its enemies and striving for *Lebensraum*. National socialism imbued the nation with organic qualities, permanence and a given and natural expectation of self-sacrifice. Italian Fascism gave nationalism an imperialist and xenophobic face, while Nazism combined the romantic Volk traditions with the pseudo-scientific ideas of racial superiority and purity disseminated via the writings of Gobineau and Chamberlain. The unimaginable horror and suffering resulting from national racial exclusiveness and totalitarianism flattened out human existence¹⁸ and narrowed human empathy.

On the ashes of human dignity and individual freedom in the world wars of 1914-18 and 1939-45, anti-nationalist narratives flourished. That was the time for humanity to progress beyond nationalism and to set the foundations for lasting peace and prosperity. Echoing this political reality and the need for a political notion of national identity, Kohn drew a distinction between ethnic and civic nationalism which captured scholars’ attention.¹⁹ He juxtaposed rational and benign Western nationalism with ethnic, Eastern nationalism which, in his opinion, was prone to irrationality and exclusion by depicting political communities as unified

14. *Ibid.*

15. *Ibid* at ch 3,6.

16. G Fichte, *Address to the German Nation* (Chicago, IL: Open Court, 1922).

17. Andrew Vincent, *Modern Political Ideologies* (Oxford: Blackwell, 1993) at 158.

18. Compare A Badiou, *The Century* (Oxford: Polity Press, 2007).

19. H Kohn, *Idea of Nationalism: A Study of its Origins and Background* (New York: Macmillan, 1945); F Meinecke, *Weltbürgertum und Nationalstaat* (München: Werk Bd 5, 1922). For a critique, see Taras Kuzio, ‘The Myth of a Civic State: A Critical survey of Hans Kohn’s Framework for Understanding Nationalism’ (2002) 25(1) *Ethnic and Racial Studies* 20.

communities of fate or communities of language, shared history and common descent. By distancing itself from ethnocentric nationalism and racial intolerance, civic nationalism appeared to entail the promise of a better future. As Plamenatz argued in the 1970s, there is ‘no logical repugnance between nationalism and liberalism’.²⁰ Public arenas in Western Europe were cleansed from the parochialism of national exclusiveness and were filled with appeals to toleration, respect for human rights and constitutional principles and a cosmopolitan culture. The age of nationalism seemed to be over; there was a widespread awareness that nationalism was ‘the starkest political shame of the twentieth century, the deepest, most intractable and yet most unanticipated blot on the political history of the world’.²¹ Only dictatorial regimes in Southern Europe seemed to cling onto anachronistic ideas but even these fell by the mid-1970s. But as the age of nationalism was pronounced to be a relic of the past, anti-colonial nationalism, sub-nationalism in colonial states and nationalism in multinational states were flourishing.

B. Inflation

In the 1980s the rehabilitation of nationalism began in earnest on the ground that its critics had underestimated its resilience as well as its importance. As Kymlicka noted, ‘a striking fact of twentieth-century history is the tenacity with which ethno-national groups have maintained their distinct identity’.²² What was needed, therefore, was the re-inscription of nationalism within a liberal, progressive and democratic framework based on the former’s functionality: nationalism is important for what it does for individuals. The justification for it was weaved on the basis of themes, such as autonomy,²³ identity,²⁴ democracy,²⁵ stability and social cohesion²⁶ and redistribution.²⁷ National membership was defended on intrinsic²⁸ as well as instrumental terms. Its proponents produced eloquent and

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20. J Plamenatz, ‘Two types of Nationalism’ in E Kamenka, ed, *Nationalism: the Evolution of an Idea* (London: Edward Arnold, 1976) 22 at 27.
 21. J Dunn, *Western Political Theory in the Face of the Future* (Cambridge: Cambridge University Press, 1979) at 55.
 22. W Kymlicka, ‘Misunderstanding Nationalism’ (1995) *Dissent* 130; D Miller, *On Nationality* (Oxford: Oxford University Press, 1995); Yael Tamir, *Liberal Nationalism* (Princeton, NJ: Princeton University Press, 1993); Margaret Canovan, *Nationhood and Political Theory* (Cheltenham, UK: Edward Elgar, 1996).
 23. Avishai Margalit & Joseph Raz, ‘National Self-Determination’ (1990) 87(9) *J Phil* 439; Avishai Margalit & Moshe Halbertal, ‘Liberalism and the Right to Culture’ (1994) 61(3) *Social Research* 491; W Kymlicka, *Liberalism, Community and Culture* (Oxford: Clarendon, 1989); W Kymlicka, *Multicultural Citizenship: A Liberal Theory of Minority Rights* (Oxford: Oxford University Press, 1995); J Raz, *Ethics in the Public Domain: Essays in the Morality of Law and Politics* (Oxford: Oxford University Press, 1995).
 24. M Moore, ed, *National Self-Determination and Secession* (Oxford: Oxford University Press, 2001); C Taylor, *The Ethics of Authenticity* (Cambridge, MA: Harvard University Press, 1992).
 25. Michael Lind, ‘In Defence of Liberal Nationalism’ (1994) 73(3) *Foreign Affairs* 87; Margaret Moore, ‘Normative justifications for liberal nationalism: justice, democracy and national identity’ (2001) 7(1) *Nations and Nationalism* 1.
 26. Tamir, *supra* note 22.
 27. Miller, *supra* note 22.
 28. Moore highlights the alleged constitutive impact of nationalism on the self; *The Ethics of Nationalism* (Oxford: Oxford University Press, 2001).

sophisticated accounts to show that without national membership we would simply lack an anchor point or fail to be self-determining agents,²⁹ and without a common national identity there would be no democratic governance (no demos, no democracy thesis),³⁰ no secure belonging and mutual attachment (the stability thesis) (Tamir) and social redistribution (the social solidarity thesis) (Miller). Accordingly, important values and ideals, such as autonomy, democracy, social solidarity and recognition found moorings within a national cultural context that enhances individuals' meaningful life options and allows them to flourish.³¹ Due to the important role played by this context, it is both legitimate and imperative that it is defended and preserved. Cultural belonging and national belonging became interchangeable and the survival of a culture was made synonymous with the survival of a nation.³²

But the 'survival' of a culture or a nation presupposes the existence of threatening others, who need to be tamed, subdued, subjugated or enlightened in order to cease to be threats. And this applies to both 'dangerous' outsiders or 'non-assimilable' aliens seeking admission to the polity as well as to non-national insiders who are deemed to be untrustworthy or disloyal. In this respect, the politics of cultural or national survival is bound to lead to the exclusion of those who 'are not like us' or 'not of the same community'. For national qua cultural belonging always brings into play a cultural core against which newcomers are to be measured, perceived and assigned a status and a place in society. And if culture becomes framed as an 'endangered species' that must be defended, then newcomers are bound to face restrictions in admission to the country and to the citizenry unless, of course, they become 'deserving' candidates owing to their assimilation to the majority culture or their conformity to political elites' authoritative definitions of belonging. As Spencer and Wollman have argued, 'in nationalist discourses there is a recurring tendency to see those inside the nation as having special virtues, political values and qualities that those outside do not share. They may (at best) have other virtues but these are always implicitly or explicitly of lesser worth'.³³

It may be counter-argued here that since the culturalisation of national belonging results in exclusion and coercion, downgrading culture in the compound of national citizenship may be the required solution. But this strategy fails to convince not only because political belonging is prone to re-culturalisation over time, but also because it is very difficult to disentangle civic, ethnic and cultural understandings of nationhood since these have been fused together over time.

29. Compare N MacCormick, 'Is Nationalism Philosophically Credible?' in W Twining, ed, *Issues in Self-Determination* (Aberdeen, UK: Aberdeen University Press, 1991).

30. As Kymlicka has observed, "the nation-state has been seen as the privileged locus for political participation, self-government, and solidarity. If democracy is the rule 'of the people', then it is the nation that defines 'the people' who are to rule themselves." In 'Liberal Nationalism and Cosmopolitan Justice' in S Benhabib, ed, *Another Cosmopolitanism* (New York: Oxford University Press, 2008) at 129.

31. According to Kymlicka, a relatively stable societal culture is required, *supra* note 23.

32. W Kymlicka, *Politics in the Vernacular: Nationalism, Multiculturalism and Citizenship* (Oxford: Oxford University Press, 2001) 25 at 30.

33. Philip Spencer & Howard Wollman, *Nationalism: A Critical Introduction* (London: Sage, 2002) at 63.

In this respect, the new civic paradigm of nationalism contained the traditional features of nationalism; namely, the centrality of the national language, a belief in the uniqueness and primacy of the nation, some form of culturalisation of politics since political principles have to be interpreted on the basis of the particular self-understanding of citizens that evokes cultural elements, shared memories and particular historical perspectives as well as the belief that ‘others’, that is, non-nationals, are somehow deficient.

Notwithstanding the above critical observations, liberal nationalists sought to transform nationhood into a *sine qua non* condition for democratic governance and the overall stability of the political system, which heterogeneity and pluralism undermined. Accordingly, the forging of a common (national) identity was believed to tie the people together, secure their consent and to enhance their trust in democratic governance.³⁴ And although citizens live among strangers who they will never know,³⁵ they have been accustomed to think of them as compatriots and to put the welfare of strangers, irrespective of their residential proximity, below the welfare of their compatriots. It was argued that the ‘fellow feeling of the nation’ and the concomitant sense of shared identity³⁶ underpin social trust³⁷ and sustain social redistributive schemes such as those entailed by welfare states.³⁸ Welfare states were thus seen to require nationals, as opposed to taxpayers and willing burden-sharers irrespective of their nationality, and solidarity had to be conceived of in national terms.

The above arguments made nationalism defensible, flexible and able to accommodate diversity and minority demands. Its rough, imperialist edge was smoothed out; valuing one’s particular way of life and traditions did not imply the negation of other people’s right to do so. Differences and divisions among free and equal citizens, allegedly, could be bridged, subsumed or superseded by a common political grammar based on shared values, a common language and patriotic allegiance to democratic governance.³⁹ ‘One people’ nationalism could

34. As JS Mill stated, ‘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.’ ‘Considerations on Representative Government’ in HB Acton, ed, *Utilitarianism, On Liberty and Considerations on Representative Government* (London: Dent, [1863] 1972) at 382.

35. Benedict Anderson, *Imagined Communities: Reflections on the Origins and Spread of Nationalism* (London: Verso, 1983). A core assertion of nationalism, however, is that the interests of the nation take priority over all other interests; John Breuilly, *Nationalism and the State* (Manchester, UK: Manchester University Press, 1993) at 2.

36. Miller, *supra* note 22.

37. As Miller has argued, ‘trust is more likely to exist among people who have a common national identity, speak a common language and have overlapping values’ in *Market, State and Community: Theoretical Foundations for Market Socialism* (Oxford: Clarendon Press, 1989) at 236-37; Miller, *supra* note 22 at 98. But compare, Andrew Mason, ‘Integration, Cohesion and National Identity: Theoretical Reflections on Recent British Policy’ (2010) 40 *British J Pol Science* 857.

38. Miller, *supra* note 22 at 92-95. For a critique, see Daniel M Weinstock, ‘Is there a Moral Case for Nationalism?’ (1996) 13(1) *J Applied Phil* 87.

39. John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971); J Habermas, ‘Citizenship and National Identity: Some Reflections on the Future of Europe’ (1992) 12(1) *Praxis International* 1; J Habermas, ‘Struggles for Recognition in Constitutional States’ (1993) 1(2) *European J Phil* 128; J Habermas, *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy* (Cambridge: Polity Press, 1996).

thus work, if it were based upon a pluralistic notion of integration within the nation.⁴⁰ Political communities did not have to be conceived of as *ab initio* national communities forged on the basis of blood ties or a common ethnicity, but national identification should also be valued, encouraged and protected. Nationality could be elastic and flexible, thereby accommodating the presence of persons of a different ethnicity and culture who are willing to identify with the central values, appreciate the history and to speak the language of the community.⁴¹

Little attention was paid to the role of the state and its coercive politics in restricting the entry of ‘unassimilable’ aliens and imposing strict requirements for settlement and for naturalisation as well as to its ability to shut gates, be they related to entry, temporary residence, settlement or admission to citizenship, at a moment’s notice. Liberal nationalism also seemed to be indifferent to democratic deficits: non-national residents contributing to the welfare of a country and who were subject to its laws and policies were treated as a subject class; that is, they were precluded from expressing their views and pursuing their interests in the political arena. What was emphasised, instead, was that the ‘assimilatory’ capacity of nations procured the adaptation of national identity to new sociopolitical exigencies and the need for transnational solidarity.⁴² In this way, the resource-based model of nationalism (nationality as the context of choice, a resource for identification and a precondition for social redistribution) was aligned with ‘the trump thesis’ underpinning traditional nationalism, that is, national identification has priority over all other individual or collective identifications.⁴³

The ‘trump thesis’, that is, that priority must be assigned to national identity, stifles the free expression of people’s multiple identifications and brackets a wide range of citizen and residence experiences. There exist several forms of identification below and beyond the nation-state which can give rise to meaningful senses of belonging and people inhabit multiple worlds simultaneously. They can easily shift in and out of their various subject positions and therefore national identifications cannot be privileged in all contexts and all the time. Additionally, they often clash with other identifications and moral obligations, and individuals must be free to think critically about the merits of and requirements imposed by them, to position themselves accordingly and to revise their identifications. At times, they may value a particular identification, while, on other occasions, they may criticize it and regard it as weightless for adopting a specific course of action. To disregard this and to insist that national identifications must override all other loyalties would be tantamount to treating multiple identity as an unhealthy choice and to accepting that individuals owe absolute and unqualified allegiance

40. Desmond King, *The Liberty of Strangers: Making the American Nation* (Oxford, Oxford University Press, 2005).

41. Miller, *supra* note 22; Kymlicka, *supra* note 32; King, *supra* note 40.

42. I have in mind the idea of rooted cosmopolitanism, which accommodates commitments to cultural particularity as well as transnational solidarity and respect for human rights. On this, see Mitchell Cohen, ‘Rooted Cosmopolitanism’ (1992) 1995(Fall) *Dissent* 487; Bruce Ackerman, ‘Rooted Cosmopolitanism’ (1994) 104(3) *Ethics* 516; Kwame Anthony Appiah, ‘Cosmopolitan Patriots’ (1997) 23(3) *Critical Inquiry* 617. Compare also, MC Nussbaum, *For Love of Country: Debating the Limits of Patriotism* (Boston: Beacon Press, 1996).

43. According to Anthony Smith, the idea that loyalty to the nation-state overrides other loyalties is one of the seven propositions that make up the core nationalist doctrine; Anthony D Smith, *Nationalism in the Twentieth Century* (Oxford: Martin Robertson, 1979).

to the commands of governments deemed to represent the national will—an assumption that undermines liberalism from within since it implies uncritical surrender of every right to authority.

In addition, notwithstanding their eloquence and richness, the revisionist narratives of nationalism could not escape self-referentiality. By taking as their point of departure the belief that nationhood has symbolic and political weight, they make the explanandum the by-product of the explanans while at the same time they bracket out the instituted nature of the explanans.⁴⁴ Membership of a national demos, for instance, is seen to foster a sense of mutual belonging and the ties of solidarity and mutual trust that Miller identifies as necessary for redistributive policies, but these could well be the product of liberal national communitarianism. In fact, if a liberal nationalist is willing to concede the constructed nature of co-national empathy and patriotic attachment, then (s)he cannot disregard the fact that the subjective component that characterises collective identities, that is, the consciousness of ‘we-ness’, may stem from various sources. ‘We-ness’ may arise out of a shared participation in socio-political practices, cooperation to provide solution to common problems, oppositional consciousness, class solidarity, an awareness of interdependence and so on. But in such a case, cultural membership ceases to be the key explanatory variable and social and institutional explanations gain prominence. In addition, the homeostatic elements of the liberal national paradigm begin to disappear as soon as its basic premise, namely, national qua cultural membership, which has been a guarantee of closure and stability, becomes intelligible as a product of historical development and of a given system of signification which is subject to revision.

The revisionist narrative on nationalism also could not be reconciled with political realities, such as, the continued discrimination of women, ethnic and racial minorities and foreigners, persistent structural inequalities among compatriots and the neo-liberal attack on the welfare state⁴⁵. Everyday politics showed that the liberal nationalist programme was neither inclusive nor impartial: all nationals did not matter equally and all interests were not given the same consideration. Neither was birth on a state’s territory a guarantee for political belonging and loyalty nor was the commitment to autonomy and freedom extended to non-national residents. States continued to treat both insiders and outsiders in a highly discretionary manner, and, more importantly, the warmth and connectedness of shared nationality did not seem to matter in the process of devising policies towards the poor, the unemployed, single parents, the young and so on. The

44. See Theodora Kostakopoulou, ‘Towards a Constructive Theory of Citizenship’ (1996) 4(4) J Political Phil 337 at 103; Arash Abizadeh, ‘Does Liberal Democracy Presuppose a Cultural Nation? Four Arguments’ (2002) 96(3) Am Pol Science Rev 495.

45. Stephen Nathanson, ‘In Defense of Moderate Patriotism’ (1989) 99(3) Ethics 535; Paul Gombert, ‘Patriotism is like Racism’ (1990) 101(1) Ethics 144; Alasdair MacIntyre, ‘Is Patriotism a Virtue?’, EH Lindley Lecture, University of Kansas, 1984. Chaim Gans has attempted to differentiate cultural from statist nationalism and to defend a sub- and inter-statist concept of cultural nationalism within the framework of the state; *The Limits of Nationalism* (Cambridge: Cambridge University Press, 2002). Compare also, Wayne Norman, *Negotiating Nationalism: Nation-Building, Federalism and Secession in a Multicultural State* (Oxford: Oxford University Press, 1996); Homi K Bhabha, ed, *Nation and Narration* (London: Routledge, 1990); Dana D Nelson, *National Manhood: Capitalist Citizenship and the Imagined Fraternity of White Men* (Durham, NC: Duke University Press, 1998).

limited explanatory and predictive power of liberal nationalism became visible by the mid-1990s. Its deflation had commenced.

C. Deflation

Although the liberal rehabilitation of nationalism captured peoples' intuitive ideas and their preference for a cosy national community, it entailed a number of noticeable contradictions in conception as well as in practice. The fast moving world of the 1990s brought the global within the national and the local and permeated boundaries of all sorts. Movements of capital, industries, people, messages and images and all the other impulses associated with political, economic and cultural globalisation blurred lines of separation and division, societies were acknowledged to be complex and internally differentiated and states became more closely entangled within international and supranational layers of governance. In an attempt to make sense of this complex world on the move and the ensuing implications, Held et al explored the institutional dimension of a cosmopolitan global order,⁴⁶ whereas literature on postnationalism inquired into the role of the nation-state paradigm in an interconnected and polycentric world.⁴⁷ Postnationalism anchored on either universal human rights and the disaggregation of rights and citizenship from national membership or the European polity building and the institutionalisation of European Union citizenship encapsulated the more general shift from culture to politics.⁴⁸ It demonstrated how strangers and enemies could become close associates and citizens enjoying the benefits of membership, rights and equal treatment irrespective of their nationality within a post-statist and post-national polity.⁴⁹ Habermas's notion of constitutional patriotism became an attractive alternative to ethnocultural bonds tying citizens together in a polity that values disagreement, communication and constructive dialogue about its principles and institutions.⁵⁰ At the same time, the formation of transnational communities linking places of origin to places of settlement and the movement of people back and forth called for more nuanced community membership paradigms⁵¹ and the

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46. David Held, Anthony McGrew, David Goldblatt & Jonathan Perraton, *Global Transformations: Politics, Economics, Culture* (Cambridge: Polity Press, 1999).
47. See F Dallmayr & JM Rosales, eds, *Beyond Nationalism? Sovereignty and Citizenship* (Lanham, MD: Lexington, 2001); Neil MacCormick, 'Liberalism, Nationalism and the Post-Sovereign State' (1996) 44(3) *Political Studies* 553.
48. Yasemin Soysal, *Limits of Citizenship: Migrants and Post-national Citizenship in Europe* (Chicago, IL: Chicago University Press, 1994); David Jacobson, *Rights Across Borders—Immigration and the Decline of Citizenship* (Baltimore, MD: John Hopkins University Press, 1996).
49. For a defence of the opposite view, see Kymlicka, *supra* note 30 at 132-34. He argues that Europeanisation is morally progressive because it is consolidating and diffusing liberal nationhood, but his argument, which is premised on political developments in Southern Europe and Central Europe, conflates processes of democratisation with processes of nationalisation. Southern European states had embarked upon nation-building processes before their democratisation.
50. Habermas, *supra* note 39, 'Citizenship and National Identity' and *Between Facts and Norms*. Compare also Patchen Markell, 'Making Affect Safe for Democracy? On Constitutional Patriotism' (2000) 28(1) *Political Theory* 38.
51. Rainer Baubock, *Transnational Citizenship* (Aldershot, UK: Edward Elgar, 1994); T Faist, *The Volume and Dynamics of International Migration and Transnational Social Spaces* (Oxford: Oxford University Press, 1996).

formation of a universal ethics.⁵²

In addition, political realities at that time displayed nationalism's 'inchoateness, brutal history and political unpredictability'.⁵³ The exodus of asylum seekers from the war zones of the former Yugoslavia was accompanied by policies designed to deter unwanted migration, such as safe third country regulations, dispersal of asylum seekers, voucher schemes and detention, as well as by discourses on 'bogus asylum seekers draining welfare resources' and 'undeserving asylum applicants'. The rise of right-wing populism in Western Europe and the anti-migrant discourse of far-right wing political parties⁵⁴, which preceded the 9/11 attacks, contributed to the entanglement of migration and citizenship with integration requirements. Accordingly, following legislative reform in the Netherlands (*Newcomer Integration Act 1998*) and the UK (*Nationality, Immigration and Asylum Act 2002*), Western European countries, with the exception of Belgium and France, required applicants for naturalization to take civic orientation tests and pre-existing language requirements have been tightened and reinforced. Migrants are also required to attend language and civic orientation courses and, in most cases, to sit integration tests, in order to enter, and/or obtain permanent residence in, the Netherlands, Austria, Denmark, France, Germany, Luxembourg and the UK. In Austria, France, Denmark and Luxembourg integration requirements are contained in integration contracts which migrants have to sign in order to obtain a secure residence status. Non-attendance of integration courses affects their access to social benefits in Germany, the Netherlands, Belgium, Sweden, Finland, Denmark, France and the UK. More controversially, since 2006 integration requirements and tests have 'migrated' abroad, that is, in (non-European) states of origin, thereby serving as switches for the family migration journey. These legislative changes have recast citizenship and residence status upon a nationalist tableau, thereby indicating a move away from the trend towards postnationalism and the politics of multiculturalism. While initially scholars argued that a "thin" notion of integration requiring acceptance of basic liberal values and knowledge of the national language is similar across liberal states,⁵⁵ and that contemporary Western states' membership policies, even after the revaluation of citizenship, are therefore no longer at the service of reproducing particular nationhood,⁵⁶ the proliferation of integration tests and their extension to the fields of migrant entry, residence and family

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52. Karl-Otto Apel, 'Discourse Ethics, Democracy, and International Law: Toward a Globalisation of Practical Reason' (2007) 66(1) *Am J Economics & Sociology* 49; Andrew Vincent, 'Liberal Nationalism: An Irresponsible Compound?' (1997) 45(2) *Political Studies* 275; H Shue, 'Solidarity among Strangers and the Right to Food' in W Aiken & H La Follette, eds, *World, Hunger and Morality* (Englewood Cliffs, NJ: Prentice Hall, 1996) 113; Bhikhu Parekh, 'Cosmopolitanism and Global Citizenship' (2003) 29(1) *Rev Int'l Studies* 3.
53. Vincent, *supra* note 52 at 294 n 75; Compare also Michael Mann, *The Dark Side of Democracy. Explaining Ethnic Cleansing* (Cambridge: Cambridge University Press, 2005).
54. Cas Mudde, 'The Single-Issue Party Thesis: Extreme Right Parties and the Immigration Issue' (1999) 22(3) *West European Politics* 182 at 190.
55. Christian Joppke & Ewa Morawska, *Towards Assimilation and Citizenship. Immigrants in Liberal Nation-States* (Basingstoke, UK: Palgrave Macmillan, 2003), at 5-9.
56. Christian Joppke, 'Beyond national models: civic integration policies for immigrants in Western Europe' (2007) 30(1) *Western European Politics* 1.

reunification have contributed to the reinvigoration of nationalism, the erosion of liberal autonomy and to a neonational re-imagining of the political community. Assimilation has become prominent again in the drive to promote cohesive societies and citizenship is now framed as a discretionary award to be conferred on 'deserving' probationary citizens.

Finally, 9/11, the ensuing 'war on terror' and the bombings in Madrid and London provided a fertile ground for authoritarian legislation and the narrowing of the boundaries of political membership. The indefinite detention of 660 foreign nationals at Guantanamo Bay, initially without access to lawyers and without the right to challenge their detention in the US courts, was based upon a deeply conservative nationalist logic which placed non-national citizens outside the bounds of any community and the ethics governing it. In the UK, the indefinite detention of foreign nationals deemed to be national security threats at Belmarsh prison displayed the executive's readiness to portray non-national residents as the main threat to national security. Even though the detainees could at any time leave Belmarsh prison by agreeing to return voluntarily to their home states, the New Labour Government insisted on differentiating between nationals and non national Islamic radicals and justifying the detention of the 'dangerous outsiders' who had not right to be in the UK but could not be deported. By so doing, government based distinctions and the discourses that sustained them re-configured membership in the polity and made security and liberty oppositional values. Rights and liberties were viewed to be illegitimate interferences with governments' powers to identify, detain and punish those who threaten national security. The threat was later broadened to include 'home-grown' terrorists and, following 7/7, suspicion spilt over into the overwhelming majority of law abiding Muslim citizens and residents. Religion became a source of division, nationalist narratives became rejuvenated and governments expected 'good' citizens and residents to lend their unqualified support and to have the 'right' values.⁵⁷ The European Commission against Racism and Xenophobia expressed deep concern about the fact that racist and xenophobic expression became, sometimes, quite explicitly, a more usual occurrence in public debate itself and the impact that the political debate had on public opinion and on the actions of ordinary citizens'.⁵⁸ Despite the liberal glossing of nationalism in the 1980s, its illiberal core became clearly visible in the first decade of the new millennium. Coincidentally, all this happened at a time of growing awareness of the deepening of globalisation,⁵⁹ state interdependence in economic growth and financial crisis and the generalised realisation that solutions to the most pressing problems we face would have to be non-national in scope and character.

57. On the distinction between blind and constructive patriotism, see Robert T Schatz et al, 'On the variety of national attachment: blind versus constructive patriotism' (1999) 20(1) *Political Psychology* 151.

58. Third Report of the European Commission Against Racism and Xenophobia (27 June 1997), Council of Europe, Strasbourg, 12 February 2008, at 34.

59. Delanty reflects on this paradox in 'Nationalism and Cosmopolitanism: the Paradox of Modernity' in Gerard Delanty & Krishan Kumar, eds, *The Sage Handbook of Nations and Nationalism* (London: Sage, 2006) at 357-68. See also Saskia Sassen, *Territory, Authority, Rights: From Medieval to Global Assemblages* (Princeton, NJ: Princeton University Press, 2006).

II. Deconflation

The discussion thus far has shown that the illiberal face of nationalism is neither asymptotic nor exceptional. State-fostered distinctions between ‘us’ and ‘them’, illiberal laws and coercive practices are neither the result of flawed decision making on the part of poorly informed political elites nor temporal aberrations that can be corrected over time. Instead, they are inbuilt features of the nationalist political narrative prone to periodic exposure and concealment. To disregard this and to argue that illiberal nationalism is a statistical outlier in the historical process would be imprudent. For even a cursory examination of the 20th century reveals processes of othering and boundary drawing, a great deal of ethnocentricity, the devaluation of ethnic, racial and religious difference and the pronouncement of dissent and opposition as unpatriotic acts given the priority accorded to the interests of the nation over all other interests and values.⁶⁰ The disjunction between nationalist ideas and practices and liberal democracy makes it imperative to consider their de-splicing.

Disentangling liberalism from nationalism in public life⁶¹ and aligning it with non-discrimination could be a promising alternative. The decentering of nationalism from its privileged position in political life and its demotion to a cultural resource and an expression of personal identity⁶² would not make the nation obsolete. Nor would it require people to abandon their national identities. Rather, the separation of the nation from the state would mean that governmental functions, laws, policies and organised practices would not have to be justified by appeals to the former. Instead, pragmatic responses, principled considerations, constitutional axioms and laws, respect for human rights and a commitment to liberty and equality—in brief, the hallmarks of political liberalism, would be the validating narratives of governmental actions and policies. Governance would simply be a matter of providing a service to the people by addressing their needs, protecting their rights, equalising the conditions that will enable them to flourish and reflecting their interests—and not of reflecting the national spirit (Hegel) or promoting the realisation of the will of the nation, however the latter may be conceived of. This, in turn, will leave very little room for coercive politics manifested in either systems of compulsion and control or the moral coercion of the ‘national interest’.⁶³

Such a liberal anationalism would transform national communities into more flexible and inclusive political communities committed to treating all inhabitants (demotes) as stakeholders and rightful participants in government. Demoi would thus be defined and sustained by their demotes, that is, by all those who

60. See Balibar, *supra* note 7. According to Breuilly, a core assertion of the nationalist doctrine is that a unique, timeless and superior ‘us’ is juxtaposed to lesser ‘them’; Breuilly *supra* note 35 at 2.

61. For an opposite argument, see Craig J Calhoun, *Nations Matter: Culture, History and the Cosmopolitan Dream* (London: Routledge, 2007). See also Marc Helbling, ‘Nationalism and Democracy: Competing or Complementary logics?’ (2009) 1 *Living Reviews in Democracy* 1.

62. State nationalism would thus become a ‘banal’ nationalism; M Billig, *Banal Nationalism* (London: Sage, 1997).

63. I paraphrase JS Mill here; *On Liberty* [1869] (Cambridge: Cambridge University Press, 1989) at 13.

are enmeshed within the fabric of socio-economic and political life of the polity, and political membership would be conditioned by domicile, and not nationality. Living with others under a common jurisdiction based on the rule of law, isonomia, and respect for rights, creating a home, a family, a business and an environment one calls his/her own, being involved in multifarious cooperative interactions with each other and political institutions all result in membership, shared belonging and the formation of constitutive attachments.⁶⁴ Certainly, a host of conditions can optimise or constrain such interactions. Power relations often place barriers to inclusion and persistent domination, disrespect and inequality lead to the weakening of attachments. Additionally, the relationships that emerge out of such interactions are not necessarily non-hierarchical. But none of the above considerations refutes the complex social reality surrounding domicile and social cooperation. Notably, encounters, cooperation and connections among people, be they necessary, intentional or accidental, shape subjectivities' lives and identities, connect individuals with the political system under which they live, enrich the experiences entailed by public life and affect collective outcomes. Better than any other notion, domicile delineates the demotes, that is, all those who have an equal share in the burden of the commonwealth and equal co-responsibility for its present and future.⁶⁵ And because domicile is not designed to reflect a polity's artificial unity or an ideal homogeneity in beliefs, values or cultural commonalities, it brings forth the possibility of relaxed, non-ethnocentric polities which would not be afraid of differences and would value human capital.

The participation of all demotes facilitates the recognition of 'others' as co-others; that is, as co-payers, co-burden-sharers, co-operators, co-improvisers, co-governors and co-governed. In such a community of concern and engagement, people would rally around principles, rights, legality and the requirements of good governance as opposed to around the flag, would identify with the interest of the commonwealth as opposed to that of the nation, and would prioritise social interaction and cooperation over suspicion and hostility. Underpinning such a community would be a commitment to dialogue, the necessity of negotiation and cooperation in order to solve common problems and concern for the other without explicit or implicit prioritisations, claims to 'true membership', the stereotyping of beliefs, cultures and ways of doing things and (problematic) assumptions about others' inferiority. This broader vision of community is thus pluralistic, democratic and dynamic.⁶⁶ It captures wonderfully Dewey's insight that 'democracy is more than a form of government; it is primarily a mode of associated living, of conjoint communicated experience. The extension in space of the number of individuals who participate is an interest so that each has to refer

64. Kostakopoulou, 'Towards a Theory of Constructive Citizenship', *supra* note 9.

65. *Ibid.* I have elaborated on, and defended, this model of citizenship in Kostakopoulou, *The Future Governance of Citizenship*. Compare also Ruth Rubio-Marin, *Immigration as a Democratic Challenge: Citizenship and Inclusion in Germany and the United States* (Cambridge: Cambridge University Press, 2000); Ayelet Shachar, *The Birthright Lottery: Citizenship and Inequality* (Boston, MA: Harvard University Press, 2009).

66. Iris Marion Young, *Justice and the Politics of Difference* (Princeton, NJ: Princeton University Press, 1990); William E Connolly, *The Ethos of Pluralisation* (Minneapolis: University of Minnesota Press, 1995).

his own action to that of others and to consider the action of others to give point and direction to his own, is equivalent to the breaking down of those barriers of class, race and national territory which kept men from perceiving the full import of their activity'.⁶⁷

Unmoored from its nationalist underpinnings, political communities would centre on demotes' dynamic interactions, dialogic exchanges, common experiences and common institutions without being dissolved within a matrix of global cosmopolitanism or a world polity. For the demos would not become unbounded, that is, it would not leak beyond national borders to include all affected interests by specific decisions,⁶⁸ but it would certainly become more inclusive and democratic by including all demotes—not just co-ethnics or co-nationals. From this it follows that citizenship would no longer be either a reflection of prepolitical belonging to an ethnic group or a cultural tag or a certificate of horizontal membership of a civic nation which endows individuals with a deep and overarching sense of identity. Instead, it would be denationalised. On it they would converge the multifarious bonds and connections, both formal and informal, social and political, overlapping and crosscutting, that individuals form with other individuals, groups, civil society and state authorities and beyond in everyday interactions and the entitlements, obligations, resources and expectations that flow from them. Unfortunately, these bonds and relations have traditionally been either disregarded or underrated as individuals are not seen to be among the 'chosen ones', the 'right' people or those holding the 'right' beliefs and values.⁶⁹ A belief in the fixity and sanctity of 'we, the people' has concealed the historicity of processes of people-ing (people making) and created the presumption that burden sharing duties and the privilege of being a formal member of the citizenry are not symmetrical.

Instead of perpetuating the national cum political character of citizenship, the process of people-ing sketched here has a fluid, future-oriented and reflexive character.⁷⁰ Its fluidity stems from the simple fact that, despite the nationalist belief in the 'naturalness' and permanence of the nation, no demos is static and permanent. Demoi belong to time in the sense that they are subject to ongoing processes of formation, reformation and transformation. The future-oriented character of people-ing is thus associated with the unavoidable absence of repeat participants over time: existing participants in time t are replaced by new ones in $t+1$, be they the descendants of existing ones, newcomers and their associates, each bringing with him/her his or her own interpretation of the past, his/her own past and a unique reading of the future. People-ing cannot but be reflexive; it is

67. John Dewey, *Democracy and Education* (New York: Macmillan, 1964 [1916]) at 87.

68. Robert E Goodin, 'Enfranchising All Affected Interests, and Its Alternatives' (2007) 35(1) *Phil & Pub Affairs* 40; Arash Abizadeh, 'Democratic Theory and Border Coercion: No Right to Unilaterally Control your Own Borders' (2008) 36(1) *Political Theory* 37. See also David Miller, 'Why Immigration Controls Are Not Coercive: A Reply to Arash Abizadeh' (2010) 38(1) *Political Theory* 111 and Arash Abizadeh, 'Democratic Legitimacy and State Coercion: A Reply to David Miller' (2010) 38(1) *Political Theory* 121.

69. On the 'right thoughts' see, P Devlin, *The Enforcement of Morals* (Oxford: Oxford University Press, 1965). On the exclusion of those deemed to be incapable of active citizenship and this 'deficient', such as women, children, the sick and so on, see Balibar, *supra* note 7 at 59.

70. Simmel used the term 'sociation' to describe the dynamic and continuous process of social group formation; *The Philosophy of Money* (London: Routledge, 1990).

based on the connections that people establish with and within a system and on social interaction and cooperation.

Critics might raise two objections here. First, it may be argued that my argument underestimates the necessity of a common (national) language for establishing connections horizontally, that is among individuals themselves, and vertically, that is, with the political system and its institutions. This, in turn, may propel the state to impose language requirements designed to facilitate the insertion of newcomers into the fabric of society, political participation and involvement in public discourse. Otherwise put, people-ing is linked to language.⁷¹ While familiarity with the language(s) of the host society facilitates political participation and citizenship practices, it does not follow that the absence of such familiarity undermines political participation or renders it impossible. By speaking and writing in their home language, newcomers can be both active and concerned members of the polity and historical migrations in the twentieth century have demonstrated that migrants with little or no knowledge of the host language were quickly and smoothly inserted into the labour market and the society making important contributions as well as that acculturation occurs as a matter of fact. This has been recognised by European Union law which consistently has held that the imposition of language tests, which are not required by the nature of the employment post, on EU citizens seeking to move to the territory of another Member state impedes labour mobility and is a form of indirect discrimination prohibited by EU law. After all, multilingualism is a resource and attempts to degrade it into a handicap if it does not include familiarity with a certain national language seem to be predicated on the assumption that national homogeneity relies on linguistic homogeneity and that societies will somehow disintegrate, or become unstable, if newcomers do not make a conscious effort to speak the host language at home and in the public arena or refuse to speak only the host language. This assumption is prevalent in the adoption of civic integration requirements for entry into a country, settlement, access to social benefits and for naturalisation in many European countries, as already noted in the previous section. It has also been invoked by governmental officials seeking to restrict the family reunification of migrants by requiring spouses to meet language requirements in their state of origin. But it has failed to convince simply because a civic republican concern about the promotion of active citizenship in the polity and involvement in civil society cannot explain why language requirements have to be mandatory, sanction-oriented and means of migration selection and restriction⁷² as well as how it is possible to promote inclusive citizenship practices by creating ‘us’ and ‘them’ dualisms and making it more difficult for people to belong.

Secondly, it may be objected that my argument underrates the uniqueness of, and differences among, polities and the distinctiveness of public cultures. Although, at first sight, this appears to be a weighty objection, it seems to me that what differentiates schemes of socio-political cooperation are the different experiences and different narratives associated with them. Similar or even identical

71. I am grateful to the CJLJ anonymous reviewer for pinpointing this.

72. I have elaborated on this in Kostakopoulou, ‘The Anatomy of Civic Integration’ (2010) 73(6) *Modern L Rev* 933.

systems draw unique paths and generate their own history. To use an analogy to illustrate my point, all (functional) families by definition are supposed to provide shelter, warmth, love, care and nurture. However, not only are familial interactions different, but also each family generates its own unique environment, way of doing things and history.

The foregoing discussion has revealed the radical potential entailed by a process of simple substitution. By replacing nationalism with anationalism, nationality with domicile, conceptions of organic, unified and pre-given publics with inclusive processes of people-ing, we create pathways for socio-political change. Critics may wonder here about the implications of such a variable change for the regulation of migration. After all, people-ing by definition relies on new members, domicile appears to pose no obstacles to the socio-political inclusion of settlers and liberal anationalism is associated with expanding circles of belonging. In what follows, I tease out the conceptual and empirical implications of liberal anationalism for migration law and policy.

III. Brave New Hotels, Brave New Worlds⁷³

There has been a healthy debate about the weightier matters of democracy and migration. Scholars have engaged in a quest for principled solutions to the problem of exclusion at the border and the continuation of poverty and inequalities worldwide. Arguments for less restrictive migration regulation and/or open borders have drawn on the principle of equality, natural law approaches that view free movement as a human right or a concrete manifestation of freedom itself,⁷⁴ and the need to make entry symmetrical to the international law right of exit.⁷⁵ From the standpoint of global justice, other scholars have sought to highlight rich states' moral obligations to assist poorer states by accepting their members and to devise a more equitable global order.⁷⁶ These may range from mutual aid⁷⁷

73. I paraphrase Aldous Huxley, *Brave New World* (London: Albatross, 1947).

74. Joseph H Carens, 'Aliens and Citizens: The Case for Open Borders' (1987) 49(2) *Rev Politics* 251; Joseph H Carens, 'A Reply to Meilaender: Reconsidering Open Borders' (1999) 33(4) *International Migration Review* 1082; Veit Bader, 'Ethics of Immigration' (2005) 12(3) *Constellations* 331; Veit Bader, 'Citizenship and Exclusion' (1995) 23(2) *Political Theory* 211; M Blake, 'Immigration' in RG Frey & Christopher Heath Wellman, eds, *A Companion to Applied Ethics* (Oxford: Blackwell, 1995) 224; Phillip Cole, *Philosophies of Exclusion: Liberal Political Theory and Immigration* (Edinburgh, UK: Edinburgh University Press, 2000); Jonathan Seglow, 'The Ethics of Migration' (2005) 3(3) *Political Studies Rev* 317; Brian Barry & Robert E Goodin, eds, *Free Movement: Ethical Issues in the Transnational Migration of People and of Money*, (Philadelphia: Pennsylvania State University Press, 1992).

75. A Dowty, *Closed Borders: The Contemporary Assault on Freedom of Movement* (New Haven, CT: Yale University Press, 1987); Ann Dummett, 'The Transnational Migration of People Seen From Within a Natural Law Perspective' in Barry & Goodin, *ibid* at 169. The discussion of whether migration is a secondary concern and whether we should focus on ensuring a more equitable global distribution falls outside the scope of this discussion.

76. See Cole, *supra* note 74; Teresa Hayter, *Open Borders: The Case against Immigration Controls* (London: Pluto, 2000); John Isbister, 'Are Immigration Controls Ethical?' in Susanne Jonas & Suzanne Dod Thomas, eds, *Immigration: A Civil Rights Issue for the Americas* (Wilmington, DE: Social Justice, 1999) 85; Joseph H Carens, 'Open Borders and Liberal Limits: A Response to Isbister' (2000) 34(2) *Int'l Migration Rev* 636.

77. Michael Walzer, *Spheres of Justice: A Defence of Pluralism and Equality* (New York: Basic Books, 1983).

and humanitarian concerns to a duty to admit newcomers if their own resources are underused⁷⁸ or if they cannot transfer part of their wealth to them⁷⁹ or a duty to justify admissions decisions to them⁸⁰ and even to ensure their representation in admissions decision-making.⁸¹ All these accounts are both insightful and important in illustrating the interconnections between global and domestic spaces, freedom and controls, privilege and inequality, border crossings and the enduring belief in owned homelands. However, I am interested in a broader narrative, a different philosophy of political life which is consonant with the above-mentioned conceptions of community and citizenship. Hence, I would like to pursue a different line of reasoning which is inspired by a mathematical theorem known as Hilbert's Hotel.

Hilbert, a German mathematician, was fascinated by the enigma of infinity. In an attempt to grapple with the idea of unendingness, he thought of a hotel which could make available an infinite number of rooms. In such a hotel, an infinite number of people could be accommodated without evicting existing guests. This would be done by simply moving guests from their existing room to the next one up or up by two rooms or up by n rooms, that is, from 1 to 2, from 1 to 3 or from n to $n+1$ or to $n+2$, depending on the number of the new arrivals. So if each guest decided to bring another friend or a colleague seeking a room or if a number of new guests arrived, Hilbert's hotel would be in a position to accommodate everyone in single occupancy rooms without building a new extension to the hotel or refusing rooms to additional new guests. This would be done by simply 'making space' for the new guests. If several new guests arrived, the management would simply ask the guest in room 1 to go into room 2, the guest in room 2 to go into room 4 and the guest in room 4 to go into room 8 and so on. This would leave all the odd numbered rooms free to be allocated to the new guests. The same could apply if, for example, my 300 second year undergraduate students sought rooms in Hilbert's hotel; guest 1 would move to room 301, guest 2 to room 302, guest 3 to room 303 and so on thereby making space for 300 new guests.

It seems to me that applying Hilbert's hotel to migration and capitalising on his idea of making space for new guests could be quite fruitful. Before continuing our reflection on it and discussing the implicit possibilities of Hilbert's hotel, however, it might be worth pausing for a minute to appraise what could be seen as initial stumbling blocks, namely the traditional beliefs that national territories are not infinite and that territorial spaces are 'homelands' owned by sovereign nations (or nation-states) represented by 'their' governments. While it is true that states' territories are not infinite, it is not true that they have a finite absorptive capacity. Popular discourses may use the 'boat is full' analogy in order to make a case for restrictive migration regulation, but the boat analogy leaves

78. Michael Blake & Mathias Risse, 'Is There a Human Right to Free Movement? Immigration and Original Ownership of the Earth' in Kennedy School of Government Faculty Research Working Paper Series RWP06-012.

79. Robert E Goodin, 'If People Were Money...' in Barry & Goodin, *supra* note 74 at 6.

80. B Schotel, *On the Right of Exclusion: Law, Ethics and Immigration Policy* (London: Routledge, 2010).

81. Abizadeh, 'Democratic Theory and Border Coercion: No Right to Unilaterally Control your Own Borders', *supra* note 68.

no room for drained agricultural sectors, declining industrial plants, households needing domestic care workers, hospitals without sufficient doctors and nurses, companies needing IT specialists and on. The analogy is also predicated on the problematic assumptions that most people would move if they could and that certain countries would not be able to cope with the ‘mass influx’ of entrants (the ‘numbers argument’). Interestingly, European Union enlargement and the abolition of internal migration controls over the decades have not been accompanied by mass-scale migration from either the Mediterranean countries to the richer North or from Eastern European countries to Western Europe.

As regards the belief that territorial spaces constitute homelands, it is true that it has been a long-established maxim of international law that the admission of aliens is matter of state discretion and that ‘every state is by reason of its territorial supremacy competent to exclude aliens from the whole, or any part, of the territory’.⁸² For more than two hundred years territorial sovereignty has been conceptually linked to property ownership, thereby endowing states with the ‘natural’ right to exclude aliens as they deem fit in the same way that a private property owner has an unfettered right to decide whether (s)he would allow a stranger into his/her house or to share with another the use of his/her property. Weak duties of hospitality in the first instance,⁸³ then bilateral agreements and later on the obligations to provide asylum to those facing political persecution and to foster the maintenance of the integrity of the family by allowing family reunion have constrained, but not erased, state discretion in this area. Yet, despite their simplicity and widespread appeal, the ‘home’ and ‘property owner’ analogies reflect neither the long history of migration nor the incessant inflows and outflows of people in a globalised world. Lands, even before they were transformed into homelands, have always been receptors of people. Similarly, polities and cities have always been territories of passage and attractors of the traffic of the world. In addition, wars, expansionism and colonisation have shaped states’ territorial confines and migration pathways.

Not only do Hilbert’s hotel and the broader hotel (or hostel) analogy mirror that reality better, but they can also alter mainstream perceptions of migration. For if polities were viewed as hotels—and not as privately owned lands, newcomers would be rightful entrants and customers. Accordingly, they would have a legitimate expectation to be allocated a room—an expectation which could be rebutted in exceptional circumstances, that is, if they were deemed to be very serious threats to the requirements of public policy and security or were part of an unpredictable exodus of people threatening to bring everything to a standstill. Similarly, governments would have no right to close ‘the door’ at will or to exclude without reasonable justification. As hotel managers (—and temporary custodians), they would have the duty to ensure the maintenance, profitability and flourishing of the hotel by letting the rooms in an orderly way and looking after the needs of all their guests, old and new, temporary, long-term and more

82. L. Oppenheim, *International Law*, 8th edition H Lauterpacht, ed. 1955, pp. 675-676. See also Vattel’s *Law of Nations*, book 1, s 231; book 2, s 125.

83. For a different interpretation of the Kantian right of hospitality, see S Benhabib, *supra* note 30 at 1-26.

permanent. After all, as mortals, all of us are guests somewhere and we would have to depart sooner or later.⁸⁴

Making migration policy akin to hotel management may seem controversial and cannot possibly answer all the challenging questions associated with migration. But it is an analogy that prompts us to think differently about migrant-host relations thereby leading to a different discourse, and policy, about migration. Despite the fact that western countries have required, and relied on, migrant labour and entrepreneurship, migrants have been officially portrayed as strains within the system. Discussion focuses on their potential to impoverish community and not to enrich it. More often than not, their humanity becomes rubbed out as they become subsumed into categories and replaced by numbers destined to be tightly controlled and reduced. Their human dignity gets amputated when they are depicted as problems and burdens that have to be managed or tolerated as if they were nothing, possessed nothing, had neither a past nor a future nor any other qualities before their applications were processed. Conversely, the image of a guest arriving at the hotel reception desk restores the dignity of human beings by highlighting their equal standing. It captures the simple truth that all human beings, be they autochthones citizens, residents or newcomers, are resource bearers. Some may be economically self-sufficient; others may have sought-after skills, educational qualifications, work experience, resilience, motivation and determination, perseverance, creativity, imagination and so on. The representation reversal entailed by the resource-based approach draws attention to the other's uniqueness and concreteness and is a by-product of the proposed deconflation of nationalism and liberalism.

Critics might observe here that the leap of imagination that my proposal invites is unnecessary because the hotel analogy is not only counterintuitive but also flawed. Hotel occupants have to pay for the rooms and services they receive and, even when they are willing to do so, there is no guarantee that they will be given a room for the hotel may be full. In fact, there exists no such thing as an infinite hotel. The first objection brings to the fore the debate about economic impact of migration and the extent of migrants' net contribution to a polity. In light of the aforementioned resource-based approach, one would have to consider not only migrant's economic means (—the money they bring), the fact that they become taxpayers and national insurance contributors as soon as they enter the employment market (—the money they contribute) and their entrepreneurial capabilities (—the money they make), but also their non-monetary contributions. Prudent hotel managers, for example, do not refuse accommodation to Cezannes who would exchange services with their paintings. Nor would they refuse entry to somebody who would offer to do all the pool repairs and the gardening in exchange for accommodation.

The second objection, that is, the fact that space is not infinite and that 'the boat (or hotel) may be full' appears to be weighty. But while it is true that no country resembles Hilbert's infinite hotel, it is also true that no country resembles an ordinary hotel of a certain occupancy capacity. Not only are most polities

84. Citizens in time *t* make important decisions about who should be included and excluded from entry and settlement, as if they have a 'natural' right to decide about the future of a country, city or neighbourhood because they are, and will be, 'theirs'. By calling into question the property ownership assumption and fostering an appreciation for the time-boundedness of people, decisions about admission into a space, that nobody ultimately owns but everybody needs and uses, are expected to be accompanied by foresight, prudence, sensitivity and empathy.

somewhere in between this continuum, but they also have a sponge-like nature. Lands may be underused, cities need regeneration, rural areas need revitalisation, markets generate labour shortages unpredictably, projects often rely on posted workers employed by international firms, and job opportunities spring up without prior notice owing to the interplay of the economic, governmental policy, investment and private entrepreneurship. So while resources are not unlimited, it would be incorrect to assume that they are exhaustible and assume the existence of zero-sum positions. Admission decisions do not take place against the background of calculable, fixed and exhaustible resources, but against a background of a continual interchange of inputs and outputs, the generation and redistribution of resources as well as the invention of alternative sources. So the same issue works both ways at the same time.

A similar conclusion can be reached with respect to services, such as education, health care, housing, job training and policing, which are generally believed to become under immense strain owing to migration. It is often argued that education, health care and policing are costly services and if too many people demand them, then the extent and quality of service that is offered to each of us would have to be reduced. In this respect, it is the government's job to look after existing 'guests' and to ensure that the level of social welfare provision is maintained at a high level. Although the social protectionist argument against migration has popular appeal, it is underpinned by the assumptions that migrants are just poor and recipients of welfare and that too many people demand services at the same time. Both assumptions, however, are not warranted on the basis of empirical data. As employees, self-employed persons, consumers and investors migrants make significant economic contributions, in addition to boosting productivity, acting as a job-market safety valve, reducing pay pressures and raising the economy's long-term or 'trend' rate of growth. In addition, owing to their age profile by and large tend pay more in taxes that they receive in welfare services.⁸⁵ In addition, the social protectionist argument ignores time and demographic pressures. For it is not only the case that sector-based short-term pressures tend to be counterbalanced by general overall welfare gains and long-term effects, but also the long-term maintenance of social welfare provision in countries with ageing populations requires, among other things, labour force increases. In this respect, it seems to me that the social protectionist objection against the hotel analogy seems to have as its relevant point of reference the national boundedness of welfare systems rather than societies' overall welfare gains or the principle of fair play which requires that every long-term contributor to the commonwealth and burden-sharer should be a legitimate recipient of its benefits, irrespective of his/her nationality.

IV. On the Need of a Liberal Anationalist Narrative

Having reviewed the turbulent relationship between nationalism and liberalism for more than a century and half and having reflected on the limitations of liberal

85. Julian Lincoln Simon, *The Economic Consequences of Immigration* (Oxford: Blackwell, 1989); K Butcher & D Card, 'Immigration and Wages: Evidence from the 1980s' (1991) 81 *Am Economic Rev* 292. Compare also European Commission, Communication on immigration, integration and employment (3 June 2003), COM (2003) 336 final.

nationalism, I have advocated their disentanglement and the political transcendence of national particularism. The proposed deconflation of liberalism and nationalism is not based on a ‘big idea’ or a narrative of redemption. Nor does it requite ‘a world-Philadelphia’, as Tugwell envisaged in 1951.⁸⁶ Nor does it rely on the mobilisation of a ‘chosen’ historical actor, be this the people or the proletariat. Instead, by highlighting the problems with some standard assumptions and cherished political ideas, it sets us on a path of exploration of the possibilities for a more inclusive, free and equitable socio-political order. Its implications may be far reaching, and should appeal not only to ‘the others’, but to all residents and citizens since they reflect the realities of interdependence, connectivity, mutual adaptation and the quest for truly open and just societies. After all, as Dewey has noted, ‘the task of democracy is forever that of creation of a freer and more human experience in which all share and to which all contribute’.⁸⁷

Against the background of liberal nationalism, nationalism would be demoted to a cultural resource and an expression of individual identification. And as a gesture against nationalism, it would mark the end of nationalist ideology’s grip over the state and public life. This would not rub out states and their borders. These will persist, but ‘they will not be barriers which impoverish experience by cutting man off his fellows’.⁸⁸ And although liberal nationalism reflects a new way of thinking about political life, it would not bring about the end of nationalism. Nor would it make people feel unanchored. Manifestations of national identification would continue, and could even increase, in cultural and social life.

Given that national narratives have not been ethically constitutive stories inspiring trust and solidarity,⁸⁹ but hegemonic stories seeking to legitimise certain power relations and political programmes, and the laborious efforts made by state apparatuses to socialise people into believing that nationality is all that matters, the disentanglement of the nation from the state might herald the former’s transmutation. Freed from its statist connections, nationhood could find new forms of expression and a new direction as a culture-based asset of public life. At the same time, liberal democratic polities would be allowed to develop, to reshape themselves in a post-ideological tableau and to continue their democratisation efforts. Like Italo Calvino’s ‘Olindas’, polities could grow up ‘on the margins and become thinner to make room for still more recent ones pressing from inside’.⁹⁰ In the place of ethnocentricity, they would advocate connectivity among institutions, varied groups and individuals and the importance of making space for each other and doing justice to each other. Such a transformed vision of society may be beyond the traditional boundaries entailed by nationalist narratives, but, certainly, it is not outside the scope of critical democracy.

86. RG Tugwell, ‘Beyond Nationalism’ (1951) 22(4) *Pol Quarterly* 346 at 350.

87. John Dewey, ‘Creative Democracy—The Task Before Us’ reprinted in M Fisch, ed, *Classic American Philosophers* (New York: Appleton-Century-Crofts, 1951) at 394.

88. J Dewey, *The Public and its Problems* (New York: H Holt, 1927, reprinted by Swallow Press and Ohio University Press, 1991) at 217.

89. Rogers M Smith, *Stories of Peoplehood: The Politics and Morals of Political Membership* (Cambridge: Cambridge University Press, 2003) 129.

90. I Calvino, *Invisible Cities* (London: Vintage, 1997) at 117.