



Voices for the *Res Publica*: The Common Good in Europe

Commissioned papers

Table of contents

National identity **2**

FRANCE: Marc-Olivier Padis	3
GERMANY: Christoph Böhr	5
THE NETHERLANDS: Auke van der Berg	8
POLAND: Joanna Tokarska-Bakir	10
THE UNITED KINGDOM: Catherine Fieschi	14

The law **16**

FRANCE: Claire Thépaut	16
GERMANY: Seyda D Emek	19
THE NETHERLANDS: Lydia Heuveling van Beek	23
SWEDEN: Qaisar Mahmood	26
THE UNITED KINGDOM: The author has requested to remain anonymous	28

The status of minorities **30**

FRANCE: Jean-Marc Dreyfus	30
GERMANY: Sergey Lagodinsky	34
THE NETHERLANDS: Crista Huisman	37
POLAND: Ireneusz Krzemiński	40
SWEDEN: Qaisar Mahmood	43
THE UNITED KINGDOM: Rob Berkeley	48

Religion **51**

GERMANY: Hasret Karacuban	51
THE NETHERLANDS: Famile Arslan	53
POLAND: Zuzanna Radzik	55
SWEDEN: Maria Södling	59
THE UNITED KINGDOM: Jonathan Magonet	62

The state and civil society **64**

FRANCE: Wojtek Kalinowski	64
GERMANY: Martin Schaad	67
THE NETHERLANDS: Farid Tabarki	69
POLAND: Konstanty Gebert	71
SWEDEN: Göran Rosenberg	74
THE UNITED KINGDOM: Tony Breslin	77

France: National identity

Marc-Olivier Padiš

'National identity is not a purely descriptive notion; it also involves strong emotional commitment. It is variable according to time and place, highly charged with ambiguity and open to manipulation. Nevertheless, this expression, burdened as it is with history and memories, and easily transformed into a weapon, remains useful for exploring that feeling of political, historical and cultural belonging that the term 'citizenship' fails to satisfactorily describe. Vague as it is, the expression 'national identity' raises the eternal question whose existence it would be futile to deny, but to which there perhaps cannot be a unilateral, nor definitive, response.

On initial examination, 'national identity' refers to a legal situation: the nationality found on an identity card or passport. This is a minimal condition for a sense of political belonging, the secure bedrock the importance of which the experience of stateless persons or refugees has taught us. To be deprived of nationality is to be exposed to wandering, devoid of assistance or the minimal protection that a state provides (or should provide) for its citizens. It constitutes the primary effective framework for personal dignity, on condition, however, that it guarantees equality (the same rights for everyone, all rights for every individual) and the effectiveness of legal protection. This minimal legal foundation characterizes citizenship, understood in the sense of rights and responsibilities that come with belonging to a political group. However, the term 'citizenship' also evokes a form of political participation that goes beyond opportunities or obligations. It evokes a form of involvement in the life of the state, which includes good citizenship, selfless concern on behalf of the common good, which constitutes the accomplished form of the citizen's life in the tradition of 'civic humanism'.

This active form of participation in political life rationalizes the passionate aspects of political belonging by often presenting them as an ideal. It does not, however, describe in itself the totality of the sentiment of political belonging. A less

intellectual, less refined, largely passive form of national identity remains the most common experience.

This subtler sentiment, sometimes less worthy, nevertheless remains the real cement of the '*affectio societatis*'. Moreover, no state disregards the importance of symbols, national pride, parochial patriotism, commemorations, collective celebrations and so on. Traditions, customs, habits and landscapes give a real form to national belonging within the daily structure of life.

It has often been noted that European citizenship has suffered from this lack of concrete incarnations. It is possible to defend 'constitutional patriotism' in terms of strong attachment and even personal engagement towards one's political community. But if such a formula makes sense within the realm of principles, it is far from having permeated the everyday life of Europeans.

It would be wrong to see in national pride only the simple expression of a sense of identity, which is of little importance from a formal legal viewpoint. The possibility of speaking one's own language, for example, or of knowing one's own history, are the conditions not only for belonging to a political whole, but also for developing a critical view which allows a distance to be created towards this belonging. Moreover, it is through seemingly fortuitous or futile elements that national belonging allows for the construction of a strong space of national solidarity: the level of redistribution accepted between citizens is directly correlated to the feeling of belonging and even of confidence that exists between citizens. The welfare state developed on a national basis, in response, moreover, to a world war which reminded us that the price of the spilled blood and collective sacrifices of war must find a permanent response once peace returned. The feeling of proximity appears, in point of fact, an inseparable part of the acceptance of the levels of deduction and redistribution that our welfare states have reached.

National belonging is therefore inseparable from an historical and cultural anchorage. But, if one recognizes that it would be vain to want to make of cultural identity an abstract idea, what place must

we grant it? Must we enter into a debate on *Leitkultur* (majority culture or reference culture)? It would not be wrong to state that it is, without a doubt, easier to integrate into a society that proposes a strong cultural corpus, visible and established, rather than into a society whose cultural codes remain implicit and discrete but secretly imply more than is obvious or stated. But if the risk of asserting a cultural identity is that of excluding those who, newcomers or not, do not share the majority culture, it is equally insidious to simplify and, finally, to impoverish this culture which has to serve as a reference. To try to establish what constitutes the cultural identity of a country is to risk reducing it to a caricature. Who can, indeed, decide the limits, the essential characteristics and the exclusions of this culture? Who can sort out what is central or marginal, essential or secondary? One would undoubtedly be content mostly with referring to a minimal school-level culture or to trendy references, even to political opportunities. The political definition of national identity, because it cannot be detached from pragmatic considerations, can only lead to manipulation of knowledge, to an oversimplification of the past, to a literally feeble (weakened) culture, whose power of seduction and inspiration would be annihilated. It would lead, ultimately, to the destruction of that which it is supposed to enhance.

The impossibility of establishing a cultural corpus must not, for all that, prevent us from speaking of belonging in cultural terms, nor make us confine ourselves cautiously to legal abstractions. Several paths can indeed be taken to overcome this apparent dilemma. The recognition, firstly, of shared conflicts. National histories more often consist of conflicts overcome rather than unilateral visions. To recognize that these conflicts are central to our heritage can help to deliver justice to the diversity of citizens' experiences. After that the recognition of the beneficial necessity of pluralism can follow. The latter must not be accepted as a lesser evil, a stopgap, a concession to tolerance, or even an inevitable scepticism, but as a positive contribution to our understanding of political life. Pluralism is desirable in itself as a discipline of the acknowledgement of the nation's internal diversity. This diversity is not only lived in the present: it is not an effect of contemporary relativism, that one could

contrast with more ancient and homogeneous times where minds were unanimous and culture was shared. Diversity is a constituent of the very foundations which cannot be reduced to a single source without causing harm. Some of these foundations have been forgotten, or obscured by history, or destroyed by confrontation with others. Others, almost abandoned, may instead still contain unfulfilled promises, unaccomplished histories, or 'warehouses' of meaning ripe for rediscovery.

Blind alleys of reference to cultural identity must not, therefore, lead to neutralizing convictions, for these convictions can nourish a positive and active commitment to citizenship and not merely a passive enjoyment of the rights that are attached to it. But convictions can only animate democratic life within a framework that includes the recognition of pluralism of opinions, the acknowledgement of the conflictual dimension of democratic life and the recognition of the unremittingly multiple foundations of our society.

Marc-Olivier Padis is the editor of Esprit.

Germany: National identity

Christoph Böhr

In the past decade the relationship of Germans to their nation and their nationality has noticeably relaxed. Nowadays, it is no longer difficult for a German to identify with his country and to think of himself as a German. One can even sometimes note a slight note of pride when someone says, 'I am German' or more often, 'my mother tongue is German'.

For the first time since the end of World War II the conditions have been created in which a German identity can be created anew. Nevertheless, even sixty years after the end of the World War II, Germans still find it difficult to deal with the concept of 'nation'. The term has been loaded ever since the derailment of the National Socialists. The way they distorted it still has an effect today. As a result, whoever uses the term still runs the risk of being ostracized. Someone thinking about 'nation' who considers this still to be an essential, or at least permissible political orientation, will prefer to hide his conviction rather than express it outright. Here lies the difficulty in describing the German national identity. It flourishes all too often in secret.

A further difficulty also comes into play: the concept of 'nation' contains within itself both the notion of inclusion, as well as of exclusion. It makes a statement that some people belong, while other others do not. It is therefore understandable that it comes to life particularly when distinctions are to be made: the nation then 'closes ranks', as a German idiom puts it. Precisely this phenomenon occurred in the 1980s and 1990s when a disproportionate number of foreigners chose to take refuge in Germany or to immigrate there. It was clear that nationalistic emotions came into play that were immediately denigrated as xenophobic or even racist. And of course once again memories of the racism of the National Socialists echoed loud and clear in the ensuing debate.

And so even today the concept of 'nation' remains traumatic in Germany and is discredited as being

nationalistic, or even latently racist.

Therefore the term 'national interest' does not feature either in the vocabulary of the political debate in Germany. This can lead to unpleasant and misleading consequences: as when Peter Struck, a former German Secretary of Defence, defended the involvement of Germany in Afghanistan several years ago; he justified it by stating that Germany would also defend the Hindu Kush. What he meant, of course, was something entirely different: namely that Germany's national interests would also be defended in the Hindu Kush. The inhibition about speaking about national interest had, in this case, the fatal consequence of a moral hyperbole: in no way was the territorial defence of Germany at stake, but rather the national interest of Germany. This can occur, but each case must be weighed up individually – more as a political, than as a moral question.

Since the reunification of Germany the relationship of the Germans to their nation has become slightly more relaxed. It has become easier to talk about the nation since it is no longer a matter of two states divided by a wall. At the same time serious trauma still remains from the National Socialist era. One consequence that continues to have an effect today is that since 1945, Germans can only distinguish their sense of identity very weakly from the concept of nationhood: in the DDR it was ideology that was supposed to foster a sense of identity, while in West Germany it was a sense of belonging to the value system of the west.

This explains why even today the Germans' political search for identity is more a moral stance than a case of national cohesion. The concept of 'nation' has a more descriptive significance in Germany than as a guideline for developing a political concept. A sense of pride in being German is now expressed in a relaxed and unhesitating way at football championships. However, it plays only a subordinate role in the political culture of the country. This is both a problem and an opportunity. One problem is that Germany, in its cooperation with other countries, always finds it difficult to understand its partners when they try to analyze Germany's aims on the basis of their own national interests, or vice versa: when other countries – led

by their own national interests – try to enlist German support to achieve their own goals. Hardly anyone understands, for example, why no one in Germany shows any interest in the fact that in a few years time Germany's energy requirements will be totally dependant on the goodwill (that is, the dictates of the market) of its suppliers. This is a serious problem for a leading industrialized country in the heart of Europe with enormous energy requirements. At the same time it is still more or less pointless in Germany – in the context of national interest – to argue for a sustainable, consistently high proportion of self-sufficiency in energy supplies. To put forward one's own (national) interests is considered improper in the political culture of Germany (and useless for winning votes).

The same applies to other political fields. The debate on integration is another good example; we still do not tell foreigners in an unambiguous manner what we expect of them if they wish to take up permanent residence in Germany. Integration can only succeed if it is absolutely clear what the target of integration is. Without a definition of the goals, integration cannot be achieved. Nowadays, no one doubts any longer that mastering the German language is a prerequisite for every kind of successful integration. But it took many, many years for this consensus to be reached in Germany. But where nearly all the other goals of integration are concerned total disagreement reigns: which cultural beliefs is it reasonable for an immigrant to hold and to appropriate? What should we say to immigrants with a non-European upbringing and cultural background who have difficulty in accepting the prevailing view expressed in Article 1: 'The dignity of a human being is inviolable'? This statement is incompatible with a view of society defined by caste thinking, or one which assumes that men and women are supposed to enjoy different rights (and obligations). This is where it becomes obvious that integration can only succeed if a country that is willing to offer a migrant a new home has first of all made clear which of its own cultural and political convictions are indispensable and which should be contractually binding on third parties.

Nowadays Germans do not wish to impose themselves on anyone. The Nazi phrase that, 'The

world can only recuperate if it adopts German attitudes and approaches', was both utterly stupid and utterly arrogant and its consequences were appalling. Today Germans sometimes forget that it is essential for maintaining a friendly relationship that all participants not only know what they want but that they should also express this to their friends politely yet firmly.

And yet the rather weak sense of German national identity also presents an opportunity that should not be underestimated. Precisely because Germany hardly considers its own national interests, let alone asserts them, has the country which is located at the very heart of Europe been enabled like no other European country, to act as the honest broker in the search for a fair solution for all parties. Moreover, it is precisely for this role that Germany has been held in considerable esteem since the Treaties of Rome were signed.

Germany has no desire for hegemony and does not wish to play any particular role (which it does, nevertheless, because of its economic potential) and is therefore – more than others – interested that at the end of negotiations (for example between the countries of the European Union) a compromise, i.e. a consensus, is reached. And even then, Germany does not even feel the need that the achieved consensus should be seen as a result of its own efforts. Unlike almost any other European country, the Germans (and not only German politicians) are convinced of the necessity for European unification, incidentally also as a result of such men as Konrad Adenauer, Willy Brandt, Helmut Schmidt and Helmut Kohl, who acted as Germany's political teachers.

Precisely because the sense of German national identity is still so weakly developed, German politicians are able to search for a compromise without being chided back home. Never have Germans seriously criticized their government for having damaged German interests when international or European agreements have been reached. Germany's financial contribution was and is considerable. Yet this fact has never been made the focus of a populist political campaign. This has never been a handicap for the importance of Germany's role both in the world and in the development of European unification.

So in the end, an inevitable ambivalence remains: as national identity and the definition of Germany's national interests are hardly ever strongly defined, the country is sometimes seen by its friends as a burden and yet for the same reasons – and probably more often – it is seen as a blessing by its neighbours and partner.

What remains to be seen is how the younger generation, who have grown up in a globalized world with the Internet, Web 2.0 and YouTube, will develop a sense of national identity. It is hardly possible to predict an outcome. Yet it is to be supposed that both regional as well as national identities will maintain their importance in an age of globalization. This assumption not only applies to emerging markets, that have been overrun by globalization, but just as much to industrial and service societies such as Germany.

A multitude of voices in Germany have expressed the hope that in due course, the citizens of this country will find the path that leads back to a

relaxed sense of national identity: that does not stand at every turn in the shadows of the memory of the National Socialist regime. As understandable as these voices are, it is equally important that Germany does not treat those years as a reason for self-pity, nor as a call for self-accusation and by no means as a reason to consider that a sense of self-awareness had been permanently forfeited. Just as important as the necessary recognition of responsibility for one's nation's history (especially in the context of a national identity) is the need to uphold the memory of a century of violence so that future generations can maintain a sense of the fragility of all democratic and cultural achievements of civilization as a distinctive historical experience and therefore as part of one's own – namely German, identity.

Dr Christoph Böhr MdL is a CDU Delegate at the Landtag, the State Parliament of Rhineland-Palatinate, the Chairman of Deutsche Cusanus Gesellschaft and an author.

The Netherlands: National identity

Auke van der Berg

'The nation is the continuing debate we have with each other in our own language', writes historian Ernest Kossman.

In a way, the Dutch government came to the same conclusion in a letter dated 20 August 2008: Language is the 'cement' of society. This letter is the government's reaction to the report 'Identification with the Netherlands' published by the Scientific Council for Government Policy (VRR, 2007). In turn, this report was a reaction to the continuing debate about national identity that has been going on for the past five years. A debate which had been absent from the public agenda in the preceding decades, for the simple reason that the cultural elite was quite pleased with the image that it, and the rest of the world, had of the Netherlands. Until five years ago, the silent majority lived up to its name and was thus not part of the debate.

The Netherlands is considered the California of Europe; we are so tolerant, we are the most liberal country of Europe, or make that the world. From marijuana to euthanasia, the Netherlands leads the way. Or is it time to start saying that the Netherlands used to lead the way?

After the assassinations of Pim Fortuyn and Theo van Gogh not much was left of the progressive image we once had, despite the differences in motivation and background behind the murders. What used to be called tolerance is now called indifference. What used to be considered liberal is now viewed as weakness. A harsh storm is raging over the polder. Let me be honest: being an exponent of the generation that turned politically correct thinking into a mantra for happiness, it is very tempting to start apologizing beforehand when writing about identity. Apologize for the fact that when you start discussing national identity it leads to 'exclusive' thinking. Because the thing that separates you from the rest – the rest doesn't have. Politically correct thinking was designed to accentuate the things that

tie us together, not the things that separate us. The interesting thing about the above-mentioned letter from the Dutch government is that it comes to the conclusion that Dutch identity does not actually exist. Of course it points out several elements the government deems important for society, but striving for active citizenship, respect for law and democracy and freedom of speech and religion are not strictly Dutch. Even skating does not set us apart. And so language, the single unique quality, is offered as the cement for society.

'The continuing debate' is what makes Kossman's definition useful in the discussion about national identity, because it makes clear that it is not a static notion, incapable of change. The thing that ties us together is subject to change.

When we discuss morals and values, we have to understand that these are not static. The continuing debate anchors what we agree on and reports the things we do not agree on. Identity is not just what ties us together but is also defined by the way we handle that which we stumble over as a community. Because, as it turns out, we cannot change the course of the raging storm.

According to statistics, the population of Amsterdam is now made up of 177 different nationalities. It is safe to assume that not everyone in this city is using the same cement in their daily lives. Obviously, there is no disputing the fact that Dutch has to be the language to act as the cement in this country. But if we want to have this continuing debate, we will have to consider the consequences of not finishing building the Tower of Babel. The arrival of hundreds of thousands of lesser educated new citizens in the Netherlands has had specific consequences for the debate.

The status of a language is related to the social class(es) using it. Language as used by a lesser educated minority, with a consequently lower social status, frustrates the user. Common psychological effects include feelings of inferiority and exclusion. Sure, we are talking about the chicken and the egg: often the newcomer already feels excluded and unwelcome for other reasons. But language allows communication and care in the use of language is a basic principle of communication.

My personal background as a member of a small and long-standing minority in the Netherlands shows that even without migration it is possible to encounter the psychological and social consequences of growing up in a minority language that is perceived and felt, as being inferior. When I was four years old I began kindergarten. The lady next door, whose house I had visited daily during the previous years, became my teacher. On the first day of school she took me apart from the group and told me that during school hours, from that day on, I had to address her in Dutch. A language I could not speak. Frisian became a language I spoke at home, while Dutch became the language of further development.

During puberty all you want to do is blend in. Being part of a minority is something you try to hide as best as you can; you try to cover up the Frisian accent flavouring your Dutch. Afraid they will hear where you come from. The language of farmers and blue collar workers is no guarantee for a warm and indiscriminate welcome.

The continuing debate defines our nation. Language allows us to have that debate. And so care in the use of it is a must. Our identity is shaped by our words. Which words we choose to use is our individual right. National identity implies a consensus, also regarding language. But choosing one does not exclude the other. National identity is like language: diverse and uniform, multicoloured and monotone. Ever changing.

Today the wind blows from all corners in the Netherlands. And sometimes it storms. But the storm always dies down. If it is not today, then tomorrow.

Auke van den Berg is the director of Rozenberg Publishers, an independent publishing house that publishes mainly academic work.

Poland: National identity

Joanna Tokarska-Bakir

In this paper I intend to develop the following thesis: paradoxically, that the disappearance from the social landscape of that national minority which, for centuries, constituted the 'thorn in the flesh' of 'true Poles' has had the strongest impact on the definition of 'Polish nationality' in present-day Poland. The Polish author, Witold Gombrowicz, wrote that Jews provided Poland with access to all the most important problems of the world; however, as a result of the Holocaust, Poland has lost this perspective.

Professor Maria Janion believes that delusions of greatness and the feeling of having been wronged are closely connected. In Poland today both of these still find their expression in Polish Messianism, which provides a sort of compensation for feelings of inferiority and humiliation which are typical of post-colonial countries¹. Loss of independence in the 18th century, living under foreign rule throughout the whole of the 19th century, followed by a short period of independence during the inter-war years in the 20th century, and the two subsequent occupations: the Soviet and the German, have created a feeling of intense inferiority vis-à-vis the West, 'which continued to develop its civilization while we remained backward. Besides, the West failed to help any of the Polish uprisings aimed at regaining independence, either in the 19th century, or in the 20th century, in the way the Poles would have expected. The basis for such Messianism (and not only of the Polish variety), that is one which proclaims 'its nation as the chosen one and destined to fulfil some special mission', is very similar².

My theory concerning Polish problems with identity, which, at present, are rapidly deepening, is presented in a recently published book *Legenda o krwi. Antropologia przesądu (Blood Legends. Anthropology of a prejudice)*³. My diagnosis may be

summarized briefly as follows: Poland has been going crazy since the disappearance of the Jews. After the Second World War the identity of the country, which for centuries was defined as *un pays marécageux, où habitent les Juifs*⁴, was thoroughly cleansed of its Jewish population. If there is a hierarchy of images of Poland, including pictures foreigners have of it, self-portraits and ideas, the most basic among them is the following: Poland was always that 'boggy country where Jews dwell'. At least for seven centuries Jews and Poles lived side-by-side, in friendship or squabbling, in neighbouring houses in a country which, after the Holocaust, saw the complete disappearance of one of these neighbours. The reaction of the Poles to the disappearance of one neighbour, namely the Jews, was, on the one hand, evident relief, but on the other, it has awoken a hidden, displaced anxiety, which, indeed, was caused by the Holocaust. It would seem that it was precisely the Holocaust and the resulting catastrophic 'homogenization' of a society used to diversity that have today become the moving force behind the 'list of Jews' currently circulating in Poland⁵ and in the violent social antagonisms it hides. Disoriented Poles, unwilling to acknowledge that primary catastrophe, have produced those 'lists of Jews' denying the disappearance of the Jews, presenting it as a fraud, whereas the ethnic uniformity resulting from the *Shoah* is presented as a falsehood fabricated by the Jews to conceal their identity. This was exactly how people from the Sandomierz region viewed Polish post-war homogeneity, with hostility and suspicion: [207W] 'Because before the war the Jew was different. He was a Jew. It was clear that he was a

almost ten years of research work based on 100 narratives from different periods on host desecration, blood libel, and attacks on Christian holy pictures blamed on the Jews. Using the methods developed by Vladimir Propp (*Morphology of the Fairytale*) the author reveals the permanent structure of these tales. She then goes on to show the morphological similarity between them and contemporary beliefs in Jewish wickedness recorded in the course of ethnographic research work conducted in the region of Sandomierz (2005-2008). The final part of the book reports that part of her research which deals with provincial memory of the Holocaust in this region of Poland.

1 Sami sobie cudzy. Z Marią Janion rozmawia Katarzyna Bielas, *Gazeta Wyborcza* 19/9/2007.
2 Ibid.
3 WAB, Warsaw 2008 (further: LK). This book is a result of

4 'Poland is a boggy country where Jews dwell', after: Czesław Miłosz, *Oprawa*, from the volume *Druga przestrzeń* (2004)
5 I wrote about these lists and provided their photocopies on pages. 621-624 of my book *Blood Legends*.

Jew. And today... it is difficult (...) Somebody is a Jew but he is hiding this, because he is... has some important job somewhere, and it's not clear who it is. Maybe he is from a Jewish family [pause]. Well, they went into the government (...). And is it known that the Jews went into the government? It's not known. Only later [indistinct] it becomes clear that they are Jews'.

[472W] 'After all in the government, in governments in Poland until today there are 70% – perhaps now Kaczynski will put things in order? – 70 or 80% are Jews. They are Jews'⁶.

If my hypothesis is correct, it would be a bitter historical irony that a country which, for centuries, based its identity on a denial of the significance of its Jewish population, lost its mental balance after their total disappearance. On the unconscious level the 'lists of Jews' constitute a desperate attempt to regain this equilibrium by restoring the diversity, by 'reconstituting' the twin who had disappeared from the Polish identity loop.

After what happened to the Jews before the nation's eyes Poland turned into a country with a broken spine. Likewise, what happened to the Jews after the war and was repeated in 1968, was far from decent, and therefore the notion of decency, which the Poles hold in high esteem, could not remain unscathed. In subsequent years it seemed that too much time had passed to revisit these events. However, we now know that experiences which we try to escape always overtake us, just as Roman Giertych, the ex-deputy Prime Minister and leader of the ultra-nationalist 'League of Polish Families', preempted the national discussion on the pre-war 'All Poland Youth' movement (*Młodzież Wszechpolska*), and just as the erection of the monument to the nationalist Dmowski in the centre of Warsaw in 2006 stole a march on the debate devoted to his heritage of hate. If there is any certain continuity in Poland it is that of various forms of antisemitism. In the most recent public discourse in Poland traditional 'fossilized' antisemitic claims have resurfaced time and again. Thus the crowd which did not wish to accept the resignation of

6 Full text of interviews from Sandomierz region conducted in 2005-2006 in: J.Tokarska-Bakir, LK.

Bishop Stanislaw Wielgus before his induction as archbishop was shouting:

'Pharisees, go away, let us pray'. 'It's all the fault of the media, those Masonic Pharisees. They've sold the Bishop for a few pieces of silver'⁷. 'It was the Jewish-Communist conspiracy that took care of it (...). They got rid of him because they did not want a Polish bishop. They could not stomach the fact that the Church will be ruled by a Pole. They are already grooming a Jew'.

Popular Polish Catholicism makes use of coded language to express hate, of cartoon-like simplification. 'Sanhedrin' is that all-encompassing 'symbolic Jew', who, the day after Bishop's Wielgus' resignation was identified by the Deputy Prime Minister Roman Giertych with the KOR (Workers Defence Committee)⁸. In Warsaw street discourse 'Sanhedrin' and 'high-priest'⁹ have become the 'villains'. Without reference to such an enemy the Polish nationalistic-Catholic society would either disintegrate¹⁰ or become marginalized.

Antisemitism is an old and 'cold' topic, which means that it is both deeply rooted and less and less directly accessible. For the past half a century, explicit anti-Jewish content has found expression in the Polish language only very infrequently.

In Poland, desecration of Jewish cemeteries is much less frequent than, for example, in France. Similarly,

7 K.Kowalska, *Przed katedrą i domem biskupów*, *Gazeta Wyborcza*, 8/1/2007; further quotations are from the same source.

8 [note signed „es”] KOR caused Bishop Wielgus's affair, *'Gazeta Wyborcza'*, 11/01/2007: 'The Holy Father took his decision influenced by these attacks', said Giertych. According to those who today attacked Bishop Wielgus it was not the Catholic Church that saved us from Communism but KOR, founded by Mssrs Macierewicz, Michnik, Kuron and others. In addition the Church has to be 'blackened', stating that it is the source for Secret Service agents! The case of Archbishop Wielgus is an attempt by KOR milieu to steal the straggle against Communism!'

9 M. Rybiński about Adam Michnik in a text called *Koniec Polski i Kiszczaka, i Michnika*, *Dziennik* 10/01/2007.

10 '...without reference to the Jews, who threaten society, this society would have disintegrated', S. Žižek, *Wzniosły obiekt ideologii*, translated by J.Bator i P.Dybel, Wrocław 2001, s.209.

the scale of racist violence is not comparable¹¹. What exists in Poland today is rather 'a structural antisemitism', manifesting itself through allusions and ambiguous signals, 'infected' words and actions, like those written on banners commenting on the failed induction of Bishop Wielgus, making use of the symbolic 'excess' hidden in the language. Slogans of the 'All-Polish Youth' movement (Młodzież Wszechpolska), revived by Roman Giertych, exemplify such 'double' messages and this whole movement may, in a way, constitute such an ambiguous message. A similar strategy has been adopted by the 'League of Polish Families', led until recently by Giertych¹². The banner carried during its October 2006 demonstration in Warsaw: 'Woodworms to the tropics', is a clear allusion to the pre-war National Democrats slogan 'Jews to Madagascar'¹³ or to the one dating from March 1968 'Zionists to Siam'. The authors of a banner: 'Eskimos! When are you going to apologize to us?' probably referred to those Jews who failed to ask the Poles for forgiveness¹⁴.

The stronghold of Polish antisemitic codes is not only the infamous 'Radio Maryja'. In present-day Poland these ideas also serve as the most effective source of election catchphrases, endowed with great potential to arouse, but they are hardly explicit. It seems that the words in these catchphrases arrange themselves to the sound of a military trumpet, in accordance with the folk idiom of ahistoricism, where only nouns are significant while verbs hardly matter. In order to work, these ideas need not be reproduced

11 See Alain Finkelkraut, quoted in: 'Forum' 14-20/3/2005, p.23; see also R.Sołyk, Skończenie z antysemityzmem, 'Gazeta Wyborcza', 20/2/2004.

12 Songs sang in summer camps run by the League of Polish Families: (music from a popular tune 'Those were beautiful days') 'Those were beautiful days, when the Jew went to the gas [chambers]'; (music from a popular tune 'How nice it is to conquer the mountains'); 'How nice it is in winter to rinse a Jewish mug in an ice-hole, to wipe one's shoes with his beard and to sing loudly the League of Polish Families'; cited from: 'Młodzież Wszechpolska – wybrane fakty z ostatnich dwóch lat', Gazeta Wyborcza, 1/12/2006.

13 Żydzi na Madagaskar – felieton o haśle z manifestacji LPR, Gazeta Wyborcza, 08/10/2006.

14 I would like to thank Mr Tomasz Płóciennik for this interpretation: if the Poles have to ask the Jews for an apology then the Poles should be forgiven by the Eskimos; as is well known in both cases there is no reason to ask for an apology.

verbatim. If they appear as syllogisms (such as, for example: 'Judas is a traitor', 'Judas is a Jew', 'Jews are traitors') it is enough to quote one of the elements and people acquainted with the code recognize it straightaway. The signal may be contained in innocent words.

for example: 'Nation' or 'Poland', provided there is a link with the word: 'enemies'. For example: in spring 2001, just before the first official anniversary commemoration of the Jedwabne massacres, Jarosław Kaczyński, who, at that time, was a candidate for the post of Law and Justice party leader, referred in one of his speeches to current events. 'They are trying to slander us', he said, 'to make us Hitler's partners; the enemies of Poland are behind this'¹⁵. He was rewarded with an ovation.

An American historian, Thomas Bender, believes that history as a discipline is strongly linked to the concept of nation as the carrier of historical narration. Therefore the way history is taught can shape an exclusive model of citizenship¹⁶. Why has the most important Polish politician failed to take this into consideration in the multinational province of Podlasie, near Jedwabne, while postulating *Ein Volk*? 'We will win', he stated, 'because Poland needs this victory. Poland needs it so that one Polish nation and not different nations should live in this state, in the Republic of Poland, so that the Republic is one whole and all its lands have the same laws; so that all the Poles have the same right to dignity'¹⁷.

'Patriotism must become universal. Yes, this is our aim', said the same politician some days later and these words already sounded like a threat, in particular, when among those to be forcefully 'enclosed' by this patriotism, before Armenians, Lithuanians Byelorussians and Germans, Jews were mentioned, while the community which so nicely invited them to join it was defined here as 'the

15 Quotation from: A.Bikont, *Pięć lat po Jedwabnem*, 'Gazeta Wyborcza', 4-5/3/2006.

16 *Czy Ameryka jest wyjątkowa? Z Thomasem Benderem rozmawia Artur Domosławski*, 'Gazeta Wyborcza', 22-23/9/2007.

17 Speech by Jarosław Kaczyński, The Prime Minister of the Polish Republic at the time, 'Gazeta Wyborcza', 16/09/2007, za PAP.

community of loyalty'¹⁸. The following statement made by the leader of the Polish Parliament, Ludwik Dorn, fulfilled an identical function of the bogeyman:

'I regard external attempts to convince the Poles that they are particularly infected by this illness [antisemitism] as an anti-Polish campaign, and the claims of the internal campaign that the Poles must make a special reckoning of their guilt because of alleged extraordinary antisemitism, I believe, is simply harmful'¹⁹.

Thus we get to the crux of the matter, the so-called policy of history which is dominant in today's Poland. Only this policy, were it to be conducted based on historical truth, on the one hand, and with a sensitive conscience on the other, could safeguard Poland's protection against historical exclusions. Unfortunately, this endeavour has been compromised in Poland from the very beginning. The most poignant expression of the new historical policy adopted in Poland is a legal measure which is still in force, contained in Paragraph 142 of the Criminal Code, which envisages a term of up to three years of imprisonment for 'public slander of the Polish nation as a participant, organiser or someone in any way responsible for Communist or Nazi crimes'²⁰. After formulating this definition of the field of discussion about the past, the authors of this historical policy expend all their energy on locking history away in museums: in the Museum of Polish History and in the Museum of the History of Polish Jews respectively, sparing no effort to ensure that anyone would mistake one for the other.

Joanna Tokarska-Bakir is a cultural anthropologist and a Professor at the Institute of Applied Social Sciences, University of Warsaw.

18 *Kaczyński: Patriotyzm musi stać się powszechny. Konwencja programowa PiS w Warszawie*, 'Gazeta Wyborcza' 30/10/2007.

19 *Dorn: Dementuję, jakoby kiedykolwiek miał serce*, 'Dziennik', 21/7/2007.

20 Passed by the Polish Parliament in October 2006 while amending the Act on the Institute of National Remembrance. It came into force on 15 March together with the amendment as a whole.

United Kingdom: National identity

No nationalism please, we're British

Catherine Fieschi

Landing in the UK fifteen years ago from Canada, a place dominated by a variety of citizenship and national identity debates, I breathed a sigh of relief at the fact that no one here was sitting around counting identities on a pin-head. To my foreign eyes there was no debate because Britain seemed self-defining – with unspoken codes, unspoken consonants, unspoken covenants and an unspoken but wilful commitment to living together in what seemed like awkward grace, if not always harmony. For me, the combination of my felt foreignness and the ease, indeed the benevolent amusement, with which others met me, were proof of the UK's self-assurance. Britishness was so alive and well, that there was no need for the word.

Beneath the general attitude, I was to discover, lay a distinct combination. Pragmatism, on the one hand — with its corresponding suspicion of enshrined codes, abstract ideologies and other concoctions that were all deemed too continental (and effete) or too American (and grandiloquent) for the no-nonsense Brits. In the face of Europe in particular, the conspicuous absence of nationalism and the light touch patriotism of the monarchy seemed like a bulwark against the excesses of continental nationalism that led to the disasters of the 20th century. And on the other hand, a version of liberalism that placed both individuals and communities, rather than nationhood, at its heart.

The multiculturalism adopted in the UK (from the 1990s onwards) was therefore a way of reconciling that pragmatism about living together in practice rather than in theory, with the UK's striking faith in communities, neighbourhood initiatives, cooperatives (the vibrant civil society that had always been counted upon to provide the societal glue required to live together in a land of unwritten rules). Multiculturalism as it was practised in the UK was therefore never enshrined as a doctrine, let alone the national ideology that it is in Canada, for example, but rather as a set of principles that encour-

aged the celebration of diversity, dialogue between cultures and a measure of minority protection that built on the various versions of the Race Relations Act (1965, 1968, 1976, 2000) and the British Nationality Act of 1948 (and 1981). Above all it was deemed loose enough to do nothing that would rigidify a predominantly *ad hoc* system of accommodation to difference.

So what went wrong?

Given these rather loose arrangements, it is worth asking what concatenation of events accounts for what seems like a reversal of public and government attitudes on this issue. Why has the debate on national identity become so much more prevalent? One obvious answer is the London bombings of July 7th 2005. Whilst 9/11 and 7/7 are often uttered in the same breath (and bear obvious similarities), the 7/7 events have been depicted as a wake-up call for the UK – beyond foreign policy matters, the London bombings (and their aftermath) are seen by some as symptomatic of the UK's policies of minority management and integration. A perception, in fact, of mismanagement – or at the very least, lack of management – of community relations.

The importance of these events is not to be underestimated. However, it is worth keeping in mind that long before the 7/7 bombings, long before 9/11, the riots in Bradford in 2001 and Birmingham in 2005 and the quiet rise of the far right in certain communities pointed to a growing malaise. A malaise of such proportions that Trevor Phillips, then Chair of the Commission for Racial Equality, did not hesitate to accuse multiculturalism of allowing the UK to 'sleepwalk into segregation' – and this before the London bombings. Finally, it is worth mentioning something that foreigners generally choose to ignore when thinking of the UK, and that is that national identity in Britain needs to be premised on three nations – England, Scotland and Wales; four if one adds Northern Ireland. After the Labour government's devolution programme (which saw Scotland and Wales acquire more law-making powers from 1998), the re-emergence of questions concerning what, if anything, holds Britain together might be more understandable. As a Scot himself, Gordon Brown made much (even as Chancellor of the Exchequer) of the Britishness agenda from

2004, and from then on the discussion of a national identity became subsumed under the Britishness debate. Thus since 2004, but more obviously since 2005, the political landscape in the UK has been dominated by the twin worries of Britishness on the one hand and the role of multiculturalism on the other.

The Britishness band-aid

Given the UK's multiple constitutive nations, Britishness was the only possible interpretation of a national identity – and it was initially perceived as a loose enough concept (in other words, capable of accommodating diversity) to co-exist with an allegiance to multiculturalism. But pushed as it was by officialdom, the conceit succumbed to its own vagueness when its adversaries demanded that it be defined. Asking 'What makes Britain British?' promptly pointed to the dangers of pinning down something as rich and fluid as a cultural and political tradition — particularly in a place that has taken pride in avoiding such smoky debates. With survey after survey indicating a decline in the proportion of people who consider themselves British (down from 52% in 1997 to 44% in 2007, according to the British Social Attitudes Survey), some saw an alarming decline in the primary allegiance to the nation-state and attendant institutions. One influential thesis that has fuelled much of the government's subsequent policy-making on the topic is from David Goodhart (editor of the monthly *Prospect* magazine of the broad liberal left). In a series of articles in the *Guardian* newspaper in February 2004 and then, subsequently, in a 2005 Demos pamphlet entitled *Progressive Nationalism*, Goodhart refers to the loss of solidarity engendered by what he refers to as the 'discomfort of strangers'. The thesis is a simple one — by valuing difference over shared values, we risk undermining the solidarity upon which our welfare states are built and thereby destroying one of the left's major achievements. An exhortation for the left to dip its toe into a debate that it has traditionally shunned and found distasteful, the thesis has gained currency on the liberal left and in policy circles (see references to it in speeches by Liam Byrne as Minister for Immigration). The received wisdom now seems to read as follows: we cannot leave matters of national identity exclusively to the right. If we are to remain fair and progressive we must address the trade offs of a

diverse society rather than hide behind notions of diversity and multiculturalism. Fuelled by such debates, the Labour government has attempted to address these issues – 2008 saw a reform and simplification of the citizenship law, as well as new (and restrictive) immigration rules.

Much of the debate in the UK has been cast as a trade off between the costs and the benefits of openness – economic benefits as potentially undermining solidarity; recognition of cultural diversity as curtailing the possibility of shared liberal values. In an open, fiercely liberal economy, it is difficult to make a case for a more closed, less *laissez-faire* cultural and political solution to diversity. And while the debate seems to peg proponents of multiculturalism (who argue that we've not had *enough*, real multiculturalism) against fierce Britishness defenders, most people are somewhere in the middle – aware of the trade offs, but resolutely against an assimilationist set of policies, or even a rigid integrationism. For most Brits, multiculturalism and diversity are an unmistakable, if difficult part of what it means to be truly British. Tolerance – a word that sends chills up the spine of many ethnic Brits – nevertheless defines what it is to be British: a live and let live attitude to others that, far from signifying ignorance or disinterest, is in fact a benevolent attitude towards other people's quirks, eccentricities and, above all, choices. The framework within which these differences are lived is being examined and many voices are rightly calling for a renewal of our commitment to the liberal values that traditionally make this sort of tolerance and living together possible. The well-researched and much agonized over tension between liberalism and the communitarianism that is often at the heart of multiculturalism is nowhere near resolved. But the conversation around shared values and the commitment to a very British liberalism has begun, in ways that suggest that Britain is more European than it used to be in its insecurities, but that any *res publica* would have to take liberalism to heart if it were to appeal to the British public.

Dr Catherine Fieschi is the Director of Counterpoint, the cultural relations think tank of the British Council.

France: The law

Claire Thépaut

Heir to the Enlightenment philosophy and the 1789 Revolution, France reveres the Law: as the expression of the popular will, inscribed in the very foundations of our democracy, as guarantor of the Republic and its values and as the instrument of the common good. Law, according to Rousseau, cannot but be just, as it is the expression of the general will. It is the means by which inalienable human and civic rights are protected; it provides detailed definition and thereby makes real the universal republican values of liberty, equality and fraternity. It is simultaneously the instrument and the expression of republican universalism, and as such, is conceived of in quasi-sacred terms. As all citizens are equal before the Law, so it provides the foundation-stone of the social contract, making good the inequalities of nature by conferring equal rights on all.

Thus, any legislation which is aimed at specific groups in the population is impermissible, even where it seeks to address inequalities by which they are affected. Such legislation is deemed incompatible with republican universalism, as it opens the door to the despised and feared privileges which were abolished on 4 August 1789 by the Constitutional Assembly. Add to this fear the spectre of the racist laws passed during the Occupation.

Grand historic laws are part of the fabric of the republican mythology, often invoked to exalt it: the 1881 law on the freedom of the press, the 1881 and 1882 laws creating free, compulsory and secular public schooling, the 1884 law on the freedom of the trade unions, the 1901 law on the freedom of association, and the 1905 law on the separation of Church and State. All these laws, passed during the Third Republic, are characterized by a luminous clarity and their continuing longevity is often quoted to prove their universality. Along with the declaration of human and civic rights in 1789, and the preamble to the Constitution of 1946, they make up the core of the French republican tradition.

In a direct line from this incantation in praise of

universalism (though derived in fact from motives which were essentially nationalistic) Republican assimilationism at the end of the nineteenth century envisaged a grouping of all the nation's individuals divested of their local particularities (dialects, for example, and regional customs), a homogeneous national body created in the name of Republican equality.

Republican universalism did not prevent, it must be said, the discriminatory, segregationist legislation in the French colonies, where the status of citizen was denied to the indigenous peoples. It allowed the exclusion of women until universal suffrage was granted in 1945. And today, it is able to accommodate other kinds of discrimination whose victims are the country's visible minorities.

The law in crisis

Meanwhile, there have been a number of developments which threaten the law's prestige; the executive has made steady inroads into the power of the legislative. Since 1958 the law has seen its remit limited, circumscribed by the constitution, its place filled by the deployment of regulatory power. In the name of combating governmental instability, Parliament has seen its authority diminished, voting for laws whose origin is essentially governmental. These laws are, moreover, very numerous, often quite rhetorical in form and contain very few normative principles. The obligation to transpose European directives into domestic law and the multiplication of fiscal rules and incentives have given rise to a new kind of law, highly technical and detailed in the extreme. Now acting as instruments of economic and social policy, laws are passed in response to the unfolding day-to-day problems governments seek to solve, often driven by an agenda defined by the media. Such law-making is expressed in terms which are directed solely at public perception with no new normative content (such as the law which enabled the right to housing to be invoked in court, theoretically making the homeless capable of suing the state). As a result, every facet of penal process or social policy is submitted to incessant modification, often in line with the televised pronouncements of the head of state. Laws accumulate, sometimes contradicting each other, endlessly piling modification upon modification. This

legislative inflation and instability have caused widespread ignorance of legislation, not only on the part of ordinary citizens but also among practising lawyers and the public servants whose job it is to apply the country's laws. As a result the effectiveness of laws is reduced and respect for them in the public's mind is damaged.

Slowly disintegrating and with public reverence for it diminished, French law is a long way from its universalist ideal. It emanates from a Parliament composed almost entirely of white men aged 50 or older, who are almost always constrained by the demands of party discipline. These elected officials are most often members of the public service or professional classes, and thus barely representative of contemporary French society with all its social and ethnic diversity.

Worse, some of these laws have the effect of promoting the kind of discrimination they are supposed to prevent. To take a notable example, the repressive legislation passed very recently. In blatant pursuit of the politically and electorally expedient twin themes of controlled immigration and security, ever more repressive measures have been voted on a wildly accelerated timetable. Resorting to the threat of imprisonment, these laws are aimed directly at young people living in impoverished districts where unemployment is rife, though, of course, this is never stated explicitly. Already disadvantaged by their social class and by the colour of their skin, the young people of the *banlieues* are the chosen targets for these penal reforms which impose ever more severe sanctions against 'juvenile delinquency' and 'urban violence.' To this effect, highly specific new offences are created, such as 'occupying the entrance hall of a block of flats', while the right to impose a curfew is allowed in certain areas. Both are only applied in all their severity in those *banlieues* districts which are suffering from massive unemployment. The criminalizing of misery in this way, imported from across the Atlantic all over Europe to a greater or lesser extent, goes hand in hand with growing job and social insecurity. Following the same pattern, protests and demonstrations by these young people, such as those in November 2005, are never analysed in terms of political revolt but merely as the symptoms of criminally deviant behaviour.

Equally suspect motives were at work in the high profile media event known as 'the affair of the veil.' The entire affair led to the enactment of a law which only reiterated the interpretation of the 1905 law given fifteen years earlier by the Conseil d'Etat, which stressed the separation of Church and School. The law forbids 'ostensible' signs of religious affiliation, (although the judges used the term 'ostentatious'.) In fact, very few students had refused to remove the veil on their entry into school; quite clearly, the principle of secularity and republican values themselves had been invoked and used in order to stigmatize the Muslims in France.

What future for the French model? What will be the role of the law?

France may formally proscribe all legislation which permits the unequal treatment of individuals on the basis of their origins or religion. Nevertheless, French society as a whole is beset with wide-scale discriminatory practices, even if there are no systematically gathered statistics allowing precise measurement of their extent.

Statistics concerning France's ethnic composition are limited to a tiny number of academic studies. In November 2007, the Conseil Constitutionnel criticized a law which extended their (carefully controlled) use, citing the constitutional principle of equality. But France cannot continue to deprive itself of such important statistical knowledge. The Veil Commission is currently deliberating this question.

Can we say that the French model is obsolete? Some figures suggest that integration in this country is functioning well enough; for example, those which show that mixed marriages between French people and foreigners have risen to one in fifteen in 2006, more than doubling over a twenty year period.

The French model has the clear advantage of avoiding the pitfalls of communitarism, but it is disfigured by its failure to offer any political representation to minorities, while it ignores – even denies – the existence of the discrimination of which they are victims.

However, over the last ten years, there has been a growing acknowledgement of this question in

society and in public life.

For example, since 2001, some of the most prestigious universities (Grandes Ecoles and especially the elite Parisian School of Political Science) have exercised a form of positive discrimination to promote the admission of students from the *banlieues*. As long as they relate to specific 'under-privileged' geographical areas, and not to groups of people characterized by their race or their religion, these various measures are compatible with French law. The same applies to the 'free zones' – areas in which start-up businesses are provided with fiscal and social support.

Some instruments of public policy aimed at combating discrimination have been put in place: in 1999 a group set up to study discrimination, with a concomitant commission to study discrimination in the accession to citizenship, and FACILD, (*Fonds d'Action et de soutien pour l'Intégration et la Lutte contre les Discriminations*). In 2000, the central government facilitated the recording of complaints about discrimination by setting up a helpline. A law of 2001 reversed the burden of proof in cases of discrimination in recruitment; it became the employer's responsibility to prove himself not guilty. In 2004, HALDE was created (*Haute Autorité de Lutte contre les Discriminations*) to receive complaints, carry out investigations and refer cases to the Public Prosecutor (*Procureur de la République*).

Public awareness of the secular Republic's unequal treatment of Islam has grown, even if its institutions have been slow to address the matter. The Stasi Commission, reconvened in 2003 at the time of the 'headscarf affair', had the merit, at least, of bringing out into the open the very small number of mosques in France, the absence of Muslim chaplains in prisons or the army and the insufficient attention paid to the dietary requirements of Muslims in public catering. On the other hand, the commission's suggestion that *Eid* and *Yom Kippur* become public holidays was not accepted.

In line with these developments, newly formed pressure groups have emerged, representing France's visible minorities. One of these is CRAN (*Conseil Représentative des Associations Noires de*

France) representing black minorities, founded in 2005. It remains to be seen over the coming years how effective its lobbying will prove to be. The 'Beurs' movement in the early 1980s achieved no gains in representation for the Arab minority, probably because it failed to make any serious political demands.

The French republican model is profoundly original, quite distinct from the Anglo-Saxon. It has chosen to privilege equality over liberty, secularism over tolerance, unity over diversity, universalism over communitarism. It has proven its effectiveness in a country which has received and integrated a huge number of foreign immigrants since the 19th century. However, today it is struggling to cope with a dislocation between its theoretical ideals and its actual practice. Massive unemployment and its brutal effects on the immigrant communities and their descendants require the injection of a certain dose of pragmatism which would in no way threaten the fundamental principles of the Republic. New legal texts and practices are moving in this direction. The Law will have to find a just balance between respect for difference and respect for Republican *égalité*. But for this to happen, it will have to stop being the compliant instrument of populist discourses (and policies) bent on stigmatizing the country's minorities.

Claire Thépaut is an examining magistrate in Nanterre.

Germany: The law

Seyda D Emek¹

After decades of ignoring the fact that a large proportion of the population had immigrated to Germany or were not of German origin, German politicians and the Government introduced an 'integration policy' in the last couple of years. The declared aims of the integration policy and of the new laws which were introduced in parallel reveal the characteristics required to become an accepted part of German society and what is deemed as 'German'.

Official definition of 'person with migration background'

In 2005 the German Federal Agency for Statistics collected data for the first time about so-called 'persons with migration background' and published them in 2007². According to these statistics there are about 15 million of them in Germany. This number is equivalent to one fifth of the 82 million inhabitants of Germany. 8 million of them have German citizenship. The Agency and the Representative of the Federal Government for Migration, Refugees and Integration apply the following definition of the term for their work: A person has a migration-background, if (1) the person was not born within the territory of the Federal Republic of Germany and migrated to Germany in 1950 or later and/or (2) the person does not have German citizenship or was naturalized. (3) The person is German but at least one of its parents fulfils one of the above-mentioned conditions. According to this definition the statistics also include ethnic German immigrants as defined by Article 116 of the German Basic Law, who are officially Germans (*Aussiedler/ Spätaussiedler*).

- 1 Dr Seyda Dilek Emek is a judge in Hanover. She is writing strictly in a personal capacity.
- 2 Statistisches Bundesamt, Bevölkerung und Erwerbstätigkeit, Bevölkerung mit Migrationshintergrund – Ergebnisse des Mikrozensus 2005, published: 4 May 2007.

The relevant law

From the 1960s to the 1990s, official policy and laws were not supportive of the integration of immigrants and migrants into German society. Nor did the existing laws aim to encourage this group to participate in civil society or to naturalize. The official German policy was that immigrants/ migrants were clearly not Germans but 'guest workers' (*Gastarbeiter*), whose primary aim was to earn money and return to their countries of origin with their children. This was also how most migrants viewed their life in Germany.

The German Citizenship Law, the *Reichs-und Staatsangehörigkeitsgesetz*, dates back to 1913. It remained in force until the end of 1999. Its main principle was that of *ius sanguinis*: a person had to be born to a German parent/parents to receive German nationality, whereas *ius soli*, as practised in other countries, requires a person to be born within the country's territory. For that reason, by the end of the 1980s, more than twenty years after the first 'guest workers' came to Germany, only a very small number of them had German nationality. Another reason for this was that foreign citizens could not apply for naturalization. According to section 8 of the *Reichsstaatsangehörigkeitsgesetz* naturalization was at the discretion of the authorities. It was seen as an exceptional way to acquire citizenship and was not meant to increase the population of the nation in a planned manner. The status of migrant-workers was equal to that of German citizens with regard to most social security and economic issues, but they lacked political rights. The main requirements for naturalization, according to Section 8 of the Citizenship Law, were that the applicant for naturalization had not been sentenced by a criminal court for committing a crime, had accommodation and was able to support him/herself and his/her family.

A first step was taken in 1990/92 with the introduction of section 85 and 86 of the Aliens Act (*Ausländergesetz*): a person of foreign nationality aged between 16 and 23 had the right to receive German nationality if he had permanently resided for eight years in Germany, had not been sentenced for committing a crime, had renounced his previous citizenship and attended school in Germany for six

years. Other people could apply for naturalization if they also fulfilled these requirements but had lived for fifteen years in Germany and were able to support themselves and their families without receiving social or unemployment benefits. A facility existed for their children and spouses. These regulations were mainly aimed at integrating the younger generation, most of whom were born in Germany but did not have German citizenship.

In 2000 when the Citizenship Law was reformed (the title of the law was changed to *Staatsangehörigkeitsgesetz*) there was a noticeable shift from the principle of *ius sanguinis* to *ius soli*. According to Article 4, a child whose parents did not have German nationality but who was born in Germany may receive German nationality if at least one parent had lived in Germany for eight years and possessed a permanent residence permit. The child may hold dual nationality until it turns eighteen. This right is one of the most controversial and debated issues within German society because, according to German citizenship rules, dual nationality is undesirable. Only a few exceptions are made in specific cases: for example, for refugees, or if the country of origin does not allow its citizens to change their nationality. Exceptions also apply to applicants from other EU member states and some other countries such as Switzerland or Liechtenstein. Members of the biggest migrant community in Germany – people of Turkish origin – feel particularly discriminated against by this law. They argue that it forces them to neglect their cultural identity, as assimilation, rather than integration, is required by the German authorities. This right is the reason why a large number of them still do not hold German citizenship, even people of the second and third generation living in Germany. They argue that German politics and the authorities should not deny their dual cultural existence. The new regulation is therefore much debated, especially these days, now that the first children have already had to choose their nationality under this new law³. The

3 There was a special regulation for children who were under ten years of age at 1.1.2000 and were born in Germany and whose parents fulfilled the requirements. In 2008 the first children had to opt for one nationality or the other. Some of them are currently suing over their obligation to give up one of their citizenships.

Government's view is that naturalization should come at the end of the entire integration process and that one has to choose one's identity. A person has to decide whether he/she wants to belong to German society by choosing German nationality.

Further amendments to the Citizenship Law were made in 2005. The administrative execution of federal laws such as this one falls within the competence of the federal states. That means that the German 'Länder' are allowed to decide on their own whether the applicant for naturalization fulfils the criteria of the law. For this reason some states, especially Baden-Württemberg, have carried out a value-based citizenship-test since 2005. The loyalty of the applicant towards the liberal-democratic order of the constitution is tested. Critics interpret the questions in these tests as a demand to assimilate to a special value-based *Leitkultur*. They argue that a liberal and pluralistic society cannot give public specifications relating to moral and social standards. The law was amended again in 2007: after 1 September 2008 a citizenship test in the form of multiple-choice questions will be mandatory. This test is less value-based than the test in Baden-Württemberg. It consists of questions about the political organization of the state and civic issues (*staatsbürgerliche Rechte und Pflichten*) such as politics and democracy. The knowledge of the applicant of German politics and history is also tested. There will be questions about Germany's past in the Nazi era and questions such as: 'Why did Willy Brandt kneel down in 1970 in the Warsaw Ghetto?' It is expected that migrants applying for German citizenship will also have to grapple with this chapter in German history.

In 2000 the German Aliens Act, *Ausländergesetz*, was renamed the *Aufenthaltsgesetz*. After reforms in 2005 and 2007 the Act stipulates that permanent residence permits can only be granted if 'proof of German living-standards' is provided. This criterion not only requires adequate knowledge of German, but also knowledge of the historical, political and cultural fundamentals of Germany⁴. Migrants who attended a German school or have equivalent diplomas and do not fulfil the criteria in other ways

4 The Dutch legislation and politics constitute a model for the new German laws.

have to attend an integration course. If they do not do so state benefits or the residence permit may be denied. Attending such courses can help to reduce the mandatory time of residence in Germany for naturalization from eight years to seven. The content of the courses has been criticized, since there has been a shift from the previous requirement that the applicant for a permanent residence permit only had to prove a sufficient period of residence, or that he was in employment and had a sufficient income, whereas the new requirement introduces criteria concerning loyalty and identity⁵.

Policy background

The new integration policies and the new laws had their starting point in the era of the coalition between the Social Democrat Party and the Green Party under Chancellor Gerhard Schröder. The Minister of the Interior, Otto Schily, set up an independent commission for Immigration (*Zuwanderungskommission*). This commission articulated that immigration/migration should be seen not as a threat but as a positive enrichment and it could also be to the advantage of mainstream society. For the first time this acknowledgement was accepted by official German policy. According to the final report of the commission in 2001⁶, the aim of the new government integration policy is equal participation in social, economic, cultural and political matters, while at the same time taking cultural diversity into consideration. The report stressed the need for efforts to be made by both sides, by mainstream society and the immigrants/migrants. Accordingly integration should be achieved by a combination of 'support and requirements' (*Fördern und Fordern*). Crucial points of the current government's integration policy can be found in 'Good living together – clear rules' (*Gutes Zusammenleben – klare Regeln. Start in die Erarbeitung eines Nationalen Integrationsplans, Beschluss des Bundeskabinetts*) of 12 July 2006. This position

paper forms the framework for the integration dialogue within the National Integration plan. As a consequence, ten task-forces dealing with interdisciplinary issues were formed. Their work is coordinated by the relevant Federal Ministry and by the 'Representative of the Federal Government for Migration, Refugees and Integration'. One of the aims of the National Integration plan is that migrants should participate equally and take responsibility in society. There is an emphasis on the fact that one should talk with migrants rather than about them. On 11 July 2007 the 'National Integration plan' was announced. It envisages a far-reaching dialogue within society, especially in the area of education. It defines new ways of public responsibility for private initiatives and private foundations where the support of pupils and students with migration background are concerned. It also obliges state agencies such as the federal states and municipalities to provide support services, especially in educational issues for children with migration background. At the initiative of Chancellor Merkel two national integration summits have been held to-date.

I find it very alarming that the principle of prohibiting dual citizenship is handled so inconsistently in German law. From a legal perspective, it would seem to suggest that dual citizenship should be avoided, that it is undesirable under international law, because it creates further problems in this field. Such problems would arise in political crisis situations, for example, where a person with dual citizenship remains in an area of conflict. The question then arises: which nation is responsible for this person? Politically it suggests that the very issue of identity advocates single citizenship; one has to decide which society one wishes to belong to. Indeed, the ban on dual citizenship creates considerable identity problems for large sections of the German population and a significant potential for society to drift apart. Wide sections of society feel excluded – I refer particularly to those migrant groups, which are not from those western countries for whom dual citizenship is recognized. Because it is by no means the fact that only citizens of other EU States can receive dual citizenship, for European legal reasons. Even non-EU citizens, from Switzerland for example, do receive this privilege. Members of other migrant groups, in particular those of Turkish origin, feel discriminated

5 See Groenendijk, *Europäische Entwicklungen im Ausländer- und Asylrecht 2006*, *Zeitschrift für Ausländerrecht und Ausländerpolitik* 9 (2007), p. 320 (325); Thomas Groß, *Das deutsche Integrationskonzept – vom Fördern zum Fordern?*, in: *Zeitschrift für Ausländerrecht und Ausländerpolitik*, 9 (2007), p. 315 (316).

6 *Bericht der unabhängigen Kommission Zuwanderung, Zusammenfassung*, S. 11, www.bmi.bund.de.

against and subjected to assimilation through the negation of their cultural roots. Given that the fundamental ban on dual citizenship was accelerated through the reform of the Nationality Act in 1999/2000, and in particular by the CDU campaign and the Premier of the Federal State of Hessen, Roland Koch, it can be considered to be more an assertion of political objective, rather than an incontrovertible legal requirement of international law.

Dr Seyda Dilek Emek is a judge in Hanover. She is writing strictly in a personal capacity.

The Netherlands: The law

Lydia Heuveling van Beek¹

In the late Middle Ages (1581) the seven northern provinces of the Netherlands removed themselves from the Hapsburg *Statenverband* [Union of States] to which they had belonged until then.

The states (*standenvergaderingen*) of these seven northern provinces of the Netherlands sent a written declaration to Filips II, the so-called *Acte van Verlaetinghe* and joined together to form a new union: the States-General.

After a failed attempt at finding a new sovereign, these seven provinces continued as the Republic of the United Netherlands. Instead of a sovereign they had a (hereditary) *stadtholder* [governor] from the House of Orange. This *stadtholder* had considerably less power than a sovereign. The States-General were the most influential body of the new republic. The Reformed Church became the religion of the state.

After a short period of Napoleonic rule, the Kingdom of the Netherlands assumed its present form of government. However, the Netherlands is still considered to be a republic ruled by a royal family house, the House of Orange.

Church and state have been separated ever since, but through several religiously oriented political parties, Christian standards and values, in particular, still play a significant role in the judicial process.

The separation in 1581 and the new form of republican government (*res publica*) have led to the fact that from very early on in the history of the Netherlands it has been necessary to balance individual (civil), decentralized (states and provinces) and central (republic) interests.

While balancing these various interests, there was always an attempt to reach a compromise. In our

times this has developed into the so-called polder model, which is highly praised by some.

This emphasis on the individual as well as on the general interest, and the constant weighing up of these two, is still a defining characteristic in the drafting and upholding of legal rules in the Netherlands. Partly because of this, legal rules are often formulated as open norms (where the law provides general guidance but not a detailed rule book), so that they can be made more concrete by interpreting them in daily practice. The judicial role of the judge is crucially important in this process.

When it comes to criminal law, the principle of discretionary powers results in the Public Prosecutor not having to prosecute every criminal act. It is possible not to do so on grounds of public interest. The Public Prosecutor makes liberal use of this and has developed a policy on the basis of it. Civilians are aware of this, and they can also appeal to it in front of a judge.

In civil and family law there is a(n) (open) norm, which says that a person who has legal authority, cannot exercise this authority if he abuses it. In short: where there is no (reasonable) interest, there is no judicial remedy.

Even when, for instance, a garage had been built, and is extended 3 cm onto somebody else's land, the other person cannot demand that the garage be taken down. In the majority of cases this person would be paid compensation. Even though his right of ownership had been violated, he would not get his land back. An example in family law would be that a judge could order a mother to stop fighting against the recognition of her child by the (biological) father, if she has no reasonable interest in her resistance, even though she has a legal right to resist. The interest of the child to know his biological father prevails over the interest of the mother, who, in all likelihood, no longer wants to have anything more to do with that man.

Finally, in administrative law, there is a rule that the government needs to weigh up all the interests involved in the decision-making process, and that the negative consequences of a decision should not be disproportionate to the purpose served. When

¹ Lydia Heuveling van Beek is a judge living in Hilversum. She is writing strictly in a personal capacity.

this is the case, the civilian receives compensation.

Another related development, which is often followed with Argus' eyes in other countries, is the so-called 'tolerance' approach by the government. In essence this is an expression of the principle of discretionary powers. The government tolerates that an illegal situation continues to exist, because implementing the law could have far greater negative consequences. An example of this is the Dutch policy on soft drugs. The sale of small amounts of cannabis is tolerated because this way the authorities are able to keep a tighter control on the quality of the drugs, and thus can better guarantee public health, than when the sale takes place in a completely illegal realm.

In this way a flexible system has come about in every legal domain. This system gives newcomers to the Netherlands the possibility to advance their interests and thus to set in motion a reappraisal of the rules and their maintenance. Their interests and needs will be weighed up alongside older, better-known interests, for instance while creating their own schools and houses of prayer.

Fundamental rights are weighed up against each other as well. In the case of a conflict of fundamental rights, for instance between freedom of expression and freedom of religion, these two fundamental rights, and the interests which are related to them in the concrete case of implementing those rights, will be weighed against each other. Thus it can happen that a vicar can afford to say more about homosexuality during a sermon than a Christian author can in a newspaper article.

A much more recent development is that the traditional institutions responsible for implementing the law are no longer considered satisfactory in the eyes of the government.

In addition to the classical political triad of parliament, government (central government of ministries and decentralized at the provincial and municipal levels) and judge, new implementation authorities have come into being. Examples of this are the Dutch Competition Authority (which controls the free market mechanism), the OPTA (market for

telecommunications), the Food and Goods Authority (food safety), the Dutch Health Authority (health-care) and the Authority for Financial Markets (stock market and banking world). These authorities carry out criminal investigations. In the case of an offence they can impose penalties. Only when a penalty has been imposed can a judge give his views on it when asked by the interested parties. These authorities therefore combine several duties, namely to investigate, prosecute and punish, which, under previous constitutional insights, had to remain separate. Judicial control only takes place at the very last stage, where another balancing act often takes place between public and private interests.

All these authorities have in common that they mainly uphold EU law (free market mechanism). This new system seems to lead to a situation where more upholding takes place without there being a prior integral weighing-up of interests in order to keep up with 'Brussels'.

European law is not yet perceived by the average Dutchman as Dutch law. Sometimes there is a certain resistance to the repercussions of EU law in the Dutch judicial system. Nevertheless, a large proportion of Dutch law nowadays arises from the European system. A hesitant conclusion would be that within this system there is less scope for the traditional Dutch method of trying to find a solution, which is acceptable to all judicial partners by means of weighing up mutual interests.

According to my analysis, because of the free market mechanisms proposed by the EU, the Dutch public feels less, or not at all, protected by its own national government. This government does indeed declare that it takes a step back to enable the market to flow freely. This might well explain the Dutch 'no' vote during the referendum about the European Constitution. The insight that the increase in economic welfare following the World War II in Europe and therefore also in the Netherlands is due to a large extent to the EU, plays a much less significant role for the public.

Finally, I would like to mention the (international) law formation following 9/11. Taking advantage of a growing feeling of insecurity, a whole range of (national) control powers are being created, which

can be exerted without there being a case of suspicion of a concrete penal offence. Some of these powers delve deeply into the personal lives of citizens. Telephone conversations and data exchanges can be listened to and recorded, as well as international travel information. Databanks can be linked and information compared under the supervision of the National Security advisor, who in this way carefully tries to map out the national security situation. Until now these new control powers have been used to investigate crimes related to terrorism, carried out by 'extremist Muslims' according to the Public Prosecutor. Up to now, judicial control has taken place through the criminal court.

There is still some discussion among Dutch jurists regarding how far the government is allowed to go when delving into the private lives of its citizens. The public does not seem to be too upset by it, on the principle that 'security comes before the fundamental right to respect for one's private and family life (art. 8 EVHRM)' and 'I have got nothing to hide'. The manner in which the criminal Court has limited the new powers of control, has, in turn, led to new jurisdiction, in which these new powers of control have been refined, a development which is still ongoing.

The flexibility of the Dutch judicial system in which all judicial partners can advance their interests and needs, after which these are weighed against each other, seems to have been pushed somewhat to the sidelines by more recent developments.

Lydia Heuveling van Beek is a judge living in Hilversum. She is writing strictly in a personal capacity.

Sweden: The law

Swedish immigration law and refugee policy

Qaisar Mahmood

Swedish law is based on a universalist perspective

Those who have permanent residence permits and those who have Swedish citizenship are entitled to the same social, civic and economic rights and are subject to the same laws. They also have equal opportunities to move freely within the European Union. In other words Swedish law is based on a universalist perspective.

Citizenship laws of different countries are built on one of two basic principles for the acquisition of citizenship by birth:

- the pedigree principle (the child takes the nationality of its parents).
- territoriality (the child takes the nationality of the country where the child is born)

Swedish citizenship law is based on the pedigree principle. It means that the parents' nationality determines the nationality of their children.

Compared to other European countries, Sweden has rather generous regulations for obtaining citizenship. A person who has received permission for permanent residence must have lived in Sweden for five years without interruption in order to apply for citizenship. Anyone who has been married, lived in a registered partnership or has cohabitated with a Swedish citizen for at least two years can apply for citizenship after three years. For Scandinavians, it is enough to have lived for two years in Sweden to apply for citizenship.

The main difference between residents with citizenship and other long-term residents is that Swedish citizens are allowed to vote in national elections and have the opportunity to be elected to the national Parliament. Those with residence permit are only permitted to vote in municipal elections.

There are, however, some professions in the public sector that require Swedish citizenship, particularly in

the military sector. But the trend is that those professions which require citizenship are becoming fewer and fewer.

There are two areas where citizens, regardless of their nationalities, are granted different sets of civic, political or cultural rights. The first is within the educational area. All pupils who do not have Swedish as their mother tongue have the right to receive education in their first language in primary and secondary schools. This 'mother tongue education' has replaced home teaching and is optional. The authorities are obliged to organize language classes for everyone whose mother tongue is not English.

There are some exceptions to this rule. Authorities, for example, are not obliged to offer instruction in immigrant languages where there is no access to adequate teachers, or fewer than five pupils.

The political and cultural rights of national minorities

The other area to which the multicultural perspective is applied is that those who are acknowledged as national minorities are granted some cultural rights to which other citizens are not entitled.

In 2000 Sweden introduced a minority policy. Five minorities with longstanding ties to Sweden were included and their cultures were granted additional rights of protection. The national minorities are Jews, Roma, Tornedalians, Swedish Finns and Lapps.

The areas where national minorities are granted specific cultural rights are listed below:

Teaching in the mother tongue

National minorities are also entitled to receive education in their mother tongue, even if that language is not used in daily life at home. The right of national minorities to receive teaching in their mother tongue is strictly regulated in educational law. The authorities are obliged to offer language classes even if it is difficult to find teachers, or if there are fewer than five students from the national minorities. There is also no time limit on how long they have the right to this education as there is for other immigrants or cultural minorities.

Cultural activities

The Swedish National Council for Cultural Affairs allocates funds for initiatives to promote national minority languages and culture. Those who want grants for activities linked to the national minorities have increased chances to receive grants for such cultural activities.

Education

According to the national curriculum for Swedish schools one of the objectives is that 'every student should have knowledge of the culture, language, religion and history of national minorities'. These objectives are more specific in the national curriculum for Swedish and history.

Minority language legislation

Specific minority language legislation applies to certain geographical areas, where Sami, Finnish and Meänkieli have a long tradition. This legislation applies to certain municipalities in Norrbotten, called administrative areas, and entitles individuals to use Sami, Finnish and Meänkieli in their dealings with administrative agencies and courts. The legislation also gives the right for pre-school and care of the elderly to be carried out partly or completely in the minority language.

Undocumented migrants

The contemporary debate about achieving a cohesive society in Sweden focuses mainly on the right of undocumented migrants to health care. In order to create a *res publica* identity, the situation of undocumented migrants and their legal status has to be solved.

In Sweden there are people who live completely outside the society's social welfare system. Some of these are so-called undocumented migrants who lack valid documents in order to stay in the country. Those who live in Sweden without a residence permit can be roughly divided into two groups: asylum seekers, and others (Social Report, 2006:9). The other group consists primarily of hidden refugees, but also of victims of trafficking and illegal workers.

It is by its very nature difficult to obtain adequate figures on the number of hidden refugees who are in the country. According to an estimate made by the International Centre for Migration Policy Development, the number of undocumented migrants in Sweden was around 20,000 in 2003-2004. According to the Swedish National Police, approximately 15,000 asylum seekers went missing after a negative decision from the migration authorities. This does not mean that they all stay in hiding in the country; they could also have left the country on their own.

Who cares for refugees in hiding?

Asylum seekers in Sweden only have the right to emergency medical care that cannot be postponed. Medical care is not free of charge for undocumented migrants, as it is for other residents. Undocumented migrants could be forced to pay anything from 2,000 Swedish kronor for a medical consultation to as much as 20,000 kronor for childbirth. Children who are undocumented migrants are, however, still entitled to receive the same care as Swedish children.

Despite the fact that undocumented migrants have the right to seek immediate care, many of them live in such fear that they would not dare to turn to the public health system. An investigation made by the organization Médecins sans Frontières showed that 82 per cent of refugees in hiding 'have encountered barriers to accessing care'. These barriers may be purely practical, such as the lack of personal or financial means to pay for their care, or indirect barriers caused by fear of contact with the authorities (Médecins sans Frontières, 2005).

Qaisar Mahmood works at the Swedish National Audit Office. He is responsible for the examination of public administration policies.

The United Kingdom: The law

In this brief paper, I sketch a personal view of modes of interrelation between law and the *res publica*, framed against the background of inter-cultural debates stoked by 9/11 and subsequent events, though those debates are, of course, of a somewhat older vintage. I also set out what I regard as the greatest threat to the law, insofar as it supports the *res publica*, namely the demise of its myth.

Ever since Roman times, Western notions of statehood and government have been inflected by an underlying regard for law and attendant order. Indeed, Cicero defined the *res publica* as an association held together by law, for the Roman lawyer and statesman maintained that law was constitutive of the *res publica*.

Increasingly the challenges to the *res publica* itself are being played out in the legal arena, wherever a public dispute cannot be worked out through public processes or civic negotiation, and recourse is sought either in the courts or through legislative assemblies and the laying down of laws.

We see this, for example, in the decisions of European courts to uphold the Turkish state's right to ban the wearing of headscarves in state universities. We see it in the efforts of the British government in parliament to extend detention periods for suspected terrorists. We see it too in the increased efforts to counter so-called 'honour killings' and forced marriages. And we see it across the Atlantic in the latitude afforded by the US Supreme Court to its government in pursuing the excesses of internment without due process, although, of course, more recently that court has retreated somewhat from its former stance.

In fact, in this last example the retreat itself (the court's ruling in June 2007 that the writ of the Constitution, and its human rights' protections, extended to Guantanamo Bay) is telling of a general dynamic operating between law and the public consensus. For, some would say, the ebb and flow of

judicial protection of civil rights matches the ebb and flow of public consensus (a consensus shifting as the true natures of our military interventions emerge), even where the courts claim that they are uninfluenced by the transient passions that dominate the press, the public and politicians.

The challenge to the *res publica* comes from many fronts. There appear to be many who perceive a challenge from Islam. In conservative quarters they characterize themselves as the silent majority, though their numbers are augmented by prominent vocal commentators who would otherwise style themselves as left-leaning, such as the commentators Nick Cohen and Christopher Hitchens. To these conservatives the threat to the *res publica* is presented by alien ethical systems that encroach upon Western liberal traditions, which alien systems they see as vying with established values for recognition and wider acceptance. But they cannot abide this because they perceive those claims as being inconsistent with the norms and values they hold dear (however much difficulty they may have in articulating precisely what either their norms or the alien Islamic norms are – consider the tedious Britishness debate).

Other liberals do not perceive a threat from inconsistent values, primarily because they place their faith in the sturdiness of the *res publica* and its capacity to provide the clearing-house of values and ideas, so that a settlement can be brokered through the tussle.

The law has always swayed to political tides, and one should generally balk at a description of any period of human history, barring those with major advances in science, as unique in any significant way.

However, the interrelations between the *res publica* and the law at this moment in time are, if not unique, then at least quite interesting.

Three things happened in tandem to bring us here, roughly speaking. For many in the human rights community, the twentieth century's triumph, perhaps obscured by the misery that littered the century, was the crowning of the human rights agenda. International courts, tribunals and protocols

sprang up like spring flowers everywhere, until the end of the century was suffused with the scent of rights.

At the same time, the world began moving and talking: mass migrations, instant news everywhere, and of course globalization, whatever that means to you.

And again at the very same time, and particularly towards the end of the century, the conflict, perceived or otherwise, between Islam and the West, reared up. This is what makes things interesting and, quite possibly, deadly. As the grand human rights agenda in the West advanced, so it penetrated the rest of the world further. In the field of international development, for example, 'rights-based development' took root. This often involved projects and programmes with decidedly Western liberal agendas that ran counter to local customs and values. In the foreign policy of Western states, however, 'the national interest' was always the only game in town. All this also led to more and more individuals, such as Osama bin Laden, and others living among us, raising the cry of hypocrisy, accusing the West of double standards. Bosnia and Chechnya are only two famous examples.

So what about the law in all this? In all the major legal disputes, even those where government seeks to introduce anti-liberal legislation – in all those disputes that pit culture against culture (supposedly, actually or otherwise), at their cores is a dispute about values, a dispute that is framed for the purposes of the law's adjudication in terms of fundamental Western human rights. And when a dispute is framed in terms of human rights, which, *ex hypothesi*, are Western, the disputes are not readily intelligible in those terms to many non-Westerners.

All this leads us to reappraise the myth of law and the courts. No longer can we sustain the myth (however erroneous it might have been anyway) that our courts stand outside the hurly-burly of politics, wars, immigration; that our courts are neutral towards newcomers with funny habits, ideas and strange ways of doing things; that Justice is blind, aloof and timeless. The newcomers, after all, could blow us up.

So the courts lose their lustre, their enchantment, and the fairy-tale is no more. This is of dire consequence to the *res publica* if, like me, you believe that democracy, of any decent variety, is founded on a myth of law, and that this myth stands squarely on a myth of judicial independence, not impartiality, but a delicate independence in the courtroom from the annoying fracas on the street.

The author wishes to remain anonymous in the spirit of the 'off the record' status of the round tables

France: The status of minorities

Jean-Marc Dreyfus

It may appear a paradox to discuss the status of minorities in France, since minorities are not officially recognized in this country. The French state and the French administration do not recognise minority groups, be they religious, ethnic or regional. The idealized vision is of a country made up of citizens united in a common endeavour: namely, the Republic. The Republic only recognizes citizens (and, at the same time, foreigners, legal or illegal aliens living on national soil). Each citizen is supposed to be equal to an administration and a state blind to differences and groups. It is fascinating to see that, at the beginning of the 21st century, the term 'communitarian' often has very negative connotations and may also be used as an insult. A 'communitarist' may be influenced by the United States, where, supposedly, the interests of different groups are of major importance, but where the 'common good' is neglected. This strong view, that is shared by some on the left as well as on the right in France, dates back to the Revolutionary period and has evolved and adapted to the different chapters in the tense history of the evolution of a stable political system. Painful chapters of history are still used today, in an ever changing way, to justify the necessity of maintaining a unified Republic that should not surrender to particularist interests.

The French Revolutionaries wanted to suppress all the intermediate bodies, which they saw as a useless legacy of the Ancien Régime. The Chapelier Law, introduced in June 1791, banned the guilds. The fight against the Catholic Church was a decisive moment in the strengthening of the Third Republic. This regime permitted the wider integration of Jews and Protestants into the political arena. Immigration policies implemented from the 1880s onwards, when masses of foreigners started to migrate to France, did not recognize any rights to the groups as such. The repulsive memory of the Vichy regime also includes the endogenous antisemitic laws, which were the only ones to separate a group – in this case the Jews – from the Nation. In recent French historiography, that was as 'colour-blind' as the

state, the main 'minority' problem to be described was that of the working class. The two electoral victories of the left, in 1936 and 1981, are seen as necessary steps to further 'integrate' workers into the body of the Nation¹.

Nevertheless, the situation is more subtle than that. Local authorities have been working for a long time with associations of immigrants, or of French citizens of foreign origin, whether they are Jews (half of the Jews living in France in 1939 were foreigners), Italians, Spaniards or Armenians etc. To give one example among many, while the National Assembly recognized the Armenian Genocide on May 29 1998, numerous monuments to the victims had already been built before that date, by municipalities, mostly in the Parisian suburbs and in cities of the Rhone valley, where Armenians settled after the First World War. It is also a tradition at the municipal level, and sometimes at the level of the department, to have one representative from the main minorities, Jews or Spaniards, the latter, for example, in the south-west of France, where the votes of Spanish Republicans and their families are important to win the ballot.

And one must not forget that among the 'problematic' minorities in France were the indigenous 'regional people', who fought for their rights and even their cultural autonomy within the Republic. Their campaign started as early as the 1880s, when the Republic felt strong enough to start its fight against the cultural differences² in the provinces, the unified school system being at the forefront of this battle. But this fight never attracted a majority of voters. The more 'autonomist' movements (in Flanders, Brittany, Alsace or even Burgundy) were discredited by their involvement in the Vichy regime or by their collaboration with the Nazis (such as Brittany³). The movements of the 1960s and 1970s mostly claimed to defend their

- 1 On this question, see : Gerard Noiriel, *Les ouvriers dans la société française : XIXe-XXe siècle*, Paris, Editions du Seuil, 1986.
- 2 Eugen Weber, *Peasants into Frenchmen: the modernization of rural France, 1870-1914*, Stanford Cal., Stanford University Press, 1976.
- 3 Arzalier, Francis, *Les perdants. La derive fasciste des mouvements autonomistes et independantistes au XXeme siecle*, Paris, Ed. La Decouverte, 1990.

regional cultures, languages and dialects. The socialist government also fulfilled some of their wishes in 1981, by allocating space to regional languages in the school system and on public radio and television.

However, this debate on minorities has taken a new turn in the last twenty years. First of all, the political arena was 'polluted' by the rising influence of the National Front. If the overtly racist (and less overtly antisemitic) far-right party, headed by Jean-Marie Le Pen, never gained a majority of votes, even at the most local level, it managed to impose the question of immigration on the national agenda of mainstream politicians⁴. The question of immigration became topical once again when the country had to get used to a high unemployment rate and when the policy of family reunification made Arab immigrants more visible in French daily life. Rising pressure from Muslims living in France, a majority of whom came from North Africa, confronted the state with the lack of organization of a religion that might account for as many as 5 million of 'Muslim origin'. Though a maximum of 1 million may be regular followers of Islam, many more now identify as Muslims. The second most important religion in France lacked a proper framework to organize itself and represent its followers to the state. After 9/11 and the rise of a defiant attitude towards Islam, the administration had to deal with the problems caused mostly by the rigid system of the 1905 Law, which strictly separated state and religion, and also by the diverse ethnic, religious and political backgrounds of Muslims. The French Council for the Muslim Religion was finally set up in 2003, by Nicolas Sarkozy, then Minister for the Interior, and it has functioned with great difficulty until now (but the Regional Councils seem to have much less problem in fulfilling their task, which is to officially organize the religious practice). Many questions have not been solved, such as the training of French imams⁵. On paper

- 4 On the National Front, see : Nonna Mayer, *Ces Français qui votent Le Pen*, Paris, Flammarion, 2002 ; Mayer, Nonna, Perrineau, Pascal, ed., *Le Front national à découvert*, Paris, Presses de la Fondation nationale des sciences politiques, 1989.
- 5 On Islam in contemporary France, see, among many books: Laurence, Jonathan, Vaisse, Justin, *Integrating Islam: political and religious challenges in contemporary France*, Washington D.C., Brookings Institution Press, 2006.

however, the French Council is slightly more democratic than the old CRIF, the umbrella organization which represents the French Jews politically, the consistories created in 1808 by Napoleon to organize their religious practice. The CRIF was created clandestinely in early 1944, to unify associations of French Jews and of foreign Jews. Though still not recognized politically, minorities in France have been more 'visible' since the 1970s. The term 'visible minority' has been in use for ten years.

It is considered a problematic term. The longing for 'blindness' is so strong that one can quote black people who claim not to consider themselves 'black', because they do not identify with a so-called 'black culture', whether it be African or Caribbean, or ... from a suburban ghetto.

Have the minorities in France really become more 'visible'? As early as the 1970s, Jews were criticized for becoming too 'visible' in the public space, as they moved towards greater orthodoxy and a more vocal support of Israel. The same happened with Muslims, at first politically, with the 'Marche des beurs', when second generation young French of North African origin marched around France to demand their right to be completely integrated into society and denounce the difficulties (racism and silent discrimination) they and their parents had to face. But Islam also became more visible, and even activist, for a minority of young Muslims in the banlieues, with a stronger sense of identification to Islam and an imported radicalized version of it⁶. It led a handful of French-born youngsters to enter terrorist cells. The most famous case was Mohamed Atta, who is believed to be the 20th terrorist of 9/11. This fear of radical Islam and also the unease of French mainstream society with the rising visibility of Muslims led to the debate about the veil. After an ongoing debate which was begun as early as the 1980s by some Muslim teenagers who refused to take off their veils in the state schools they attended, Jacques Chirac finally instigated a law forbidding any 'visible' religious signs in schools. But this only applied to schools, not to all public buildings, as is often wrongly reported by foreign commentators,

- 6 Kepel, Gilles, *Les banlieues de l'Islam. Naissance d'une religion en France*, Paris, Ed. du Seuil, 1987.

for whom the law was incomprehensible). This law was passed on 14 March 2004. It led to a crackdown on all religious symbols in schools, such as kippot (skullcaps worn by Jews). There is now talk about creating Muslim private schools in the country, which the law would permit, but apparently, there are not enough Muslim worthies, or they are not sufficiently involved in their community life, to support the creation of such schools.

One surprise in France has been the rise of a politically organised 'black' community. The CRAN was created on 26 November 2005, in one of the rooms of the Parliament building (which shows its desire to be an 'official' lobby). It is an umbrella organization aiming to unite all the 'black' organizations in France. It is obviously modelled on the Jewish CRIF. The CRAN is a surprise, since black people living in France are even more divided than the Muslims. Between the Caribbeans, who have been French for generations, and the recent immigrants from Africa, themselves divided between Christians and Muslims, what could be the common platform? 130 associations are represented and the CRAN frequently overestimates the number of 'black' people living in France for its own political purposes. It seems, though, that, after great interest was shown by the media and some politicians, the CRAN could not achieve its goal of being influential at the political level.

If the CRAN can play with figures, it is because the 'blindness' of the Republic goes so far as to forbid statistics about ethnicity. Though pollsters and researchers can produce such figures, no official census of Muslims, Jews or blacks exists. In the recent presidential campaign, Nicolas Sarkozy went from a more 'liberal' point of view on communities and minorities in France – even talking about the possibility of changing the 1905 law and advocating a policy of affirmative action – to stricter 'Republican' considerations. There were speeches in the campaign about permitting statistics about ethnicity and also introducing a kind of affirmative action, to alleviate the silent discrimination the French of African origin have to face in their daily life. These projects are no longer on the agenda.

What is my personal opinion, as a French historian of the Holocaust, teaching in a British university,

involved in many projects all over Europe? The prism of Holocaust Education is quite telling in itself, in order to appreciate the question of multiculturalism and minorities in Britain and in France. In France, Holocaust Education wants to be an acknowledgement of the responsibility of the French state and administration in the persecution of the Jews and also a 'duty of memory', to remember those who perished. In Britain, it is much more 'dis-historicized' and 'decontextualized', and is considered as a recognition of Jewish identity in the country, the same way other minorities receive attention and consideration once a year, through their sufferings or their culture, from the local authorities and the state. In Britain, Holocaust Education is also seen as part of inter-faith dialogue, mostly a Christian-Jewish one, but more and more also a Muslim-Jewish exchange of experience.

As far as the status of minorities is concerned, a major political and ideological change is not considered desirable in France. The weight of history, but also the advantages of 'Republicanism' do not advocate a major move to a more multiculturalist perspective. After all, all opinion polls and sociological research show that the integration of recent immigrants is functioning in France and that 'race relations', to use an American term, are better than in other countries, better than in the United Kingdom and in the Netherlands, for example. Defiance towards Muslim citizens is much more widespread in those two countries than in the strict Republican system. France is a liberal society, where the state does not control the cultural production as tightly as it did until the 1980s. In consequence, Paris is even more than London the world capital of African music and the *raï* is flourishing in the French suburbs. There has been a 'recognition' of different minorities, not so discretely, in the last 15 years, thanks to the politics of Jacques Chirac. Muslims have a representative body now, as do blacks. The *harkis* (Muslims who fought for the French in the Algerian War) have a national day of commemoration, etc. The Republic could be slightly more generous in this symbolic recognition, especially within the school system, but the traditional 'republican' view of the Nation, as a coalition of equal individuals, should be preserved; this view should permit the integration of all individuals in the Nation. The communitarist

perception of the Nation seems useless, as the communities would enter into a sterile and endless war for prominence. Nevertheless the 'blindness' to differences can prevent the social problems that minorities face from being tackled. Everyone knows that the banlieues are in a derelict condition and that foreigners and citizens of foreign origin (but not all of them, Arabs more than Portuguese, for example) face serious obstacles to entering the economic arena and the job market. A form of 'affirmative action' should be introduced in France to leverage the difficulties. It already exists in the school system, where schools in 'ZEP', in the most difficult areas, receive more state funding and teaching staff. Some other limited attempts have been made, such as the 'zones franches' in the *banlieues*, allowing tax cuts to firms that create jobs in the most impoverished districts (this attempt has proved unsuccessful to-date). The most visible initiative taken by Sciences Po, the prestigious and elitist Institute for Political Sciences in Paris, to admit students from 'ZEP high schools' on a separate track, is a real success, permitting young people from depressed areas to enter one of the elite higher education institutions. In France, attempts to modify the consensus on the national model could just be a justification to avoid facing the serious economic inequalities among different minorities of the country, as was too often the case in the US (the country which celebrates Martin Luther King's day widely, but where African-American citizens cannot get health insurance).

Dr Jean-Marc Dreyfus is a lecturer in Holocaust Studies at the Department of Religion, Manchester University.

Germany: The status of minorities

Sergey Lagodinsky

Over the past decade the attitude of German society to its minorities has undergone a considerable transition. This development reflects a society trying to meet three main challenges: to understand the backgrounds, cultures and attitudes of minorities living in this country, develop a comprehensive set of policy measures to deal with them and above all, to try to define, or redefine itself, in the light of the ethnic diversity with which German society is slowly coming to terms. In different phases of this development the public stressed various aspects of these components with different intensity, so that we can speak of three recent incarnations of the minorities debate in Germany.

The three incarnations of the German minorities debate

The longing for self-definition is a cornerstone dimension of this process and it is not only a metaphorical one: for years German political elites struggled with the question whether their country may or may not be called an 'immigration country' (Einwanderungsland). What seems to be an exercise in linguistic fetishism focusing on specific immigration issues, was, in fact, one of the early attempts to define Germany's identity in the light of its unexpected diversity. The question at the heart of the debate was not only (and probably not so much) how Germany should deal with those who wish to immigrate, but also with those who were already here. How open should German society be towards numerous – mostly immigrated – minorities living within its borders? This incarnation of the minorities debate was the immigration debate. The conservative Christian Democrats have long resisted the term 'immigration country', especially under Chancellor Kohl, while the Greens were its most vigorous proponents. After the new immigration law was introduced by the red-green coalition with the support of the CDU, and even more so after their return to power under Chancellor Merkel, the Christian Democrats warmed towards the previously controversial term. Nevertheless, many of them,

such as Interior Minister Schäuble, continue to question its validity.

With immigration streams to Germany decreasing during the late nineties, the controversy shifted to where it belongs – within the state borders and towards the question of the relationship between Germans and their diverse cultures. The second incarnation of the minorities debate was a culture debate. Both political elites and the public in Germany were polarized amidst the clash of two extreme concepts: the open concept of multiculturalism advocated mostly by the Green party and the conservative concept of a 'leading culture' (Leitkultur) presented by the CDU. While the former envisions a future of Germany as a simple addition of various equally legitimate cultures, the latter underlines the predominant role of the host culture to which others have to submit. The Social Democrats were the last to enter the culture debate when they introduced the term 'culture of (mutual) recognition' (Kultur der Anerkennung) into their party programme in 2008. However, the proponents of the concept are still struggling to give it a clear definition beyond referring to it as a middle ground between the cultural conservatism of the Christian Democrats and the cultural relativism of the Greens. Meanwhile, the culture debate itself is fading out as both extreme concepts lost their most influential political advocates. The notion of multiculturalism – the brainchild of left-leaning elites which, from the very beginning, remained suspicious to the vast majority of Germans, was ultimately shelved in the aftermath of the 9/11 attacks and subsequently reduced to a ridiculed leftist fantasy. On the other hand, in its attempts to lean closer to the political centre and attract voters with a migrant background, the CDU under Merkel avoids overemphasizing the conservative concept of Leitkultur. The culture debate – problematic as it might have been – has achieved one thing: it shifted the public status of ethnic minorities living in Germany from the temporary state of 'guests' to the permanent state of residents, with an essential role to play in the culture of this country. One of the results of this shift is that the term 'foreigner', used towards most ethnic minorities, has been replaced in public discourse by terms such as 'people with a migrant background', or 'with a migrant history'.

Against this background the weight of the minorities debate in Germany has shifted once again. The third and most recent incarnation of the minorities debate is an integration debate. While the previous two openly focused on the self-understanding of the German society and thus touched upon the very foundations of its identity, the present debate treats the issue largely as a technical matter: its premise is that minority issues can be solved through a mixture of governmentally sponsored measures, mostly in the area of social and labour market policies, given the willingness of minorities to accept the rules of the overall societal game.

The obvious problem of this discourse is that it overlooks the larger structural obstacles that do not fit under the categories of social policies. Neither de facto discrimination nor cultural tensions can be discussed in depth using the language of integration politics. And as often happens in politics, things that cannot be discussed do not exist. The discussion about Germany's identity is largely overshadowed by the integration technicalities.

No wonder that the integration burden is largely skewed towards 'migrants', who are required to intensify their efforts in adhering to the rules of the host country and are asked for a lot of personal transformation (from language to values!). The majority, on the other hand, has readily delegated the integration work, on its part, to the government. As a result the contemporary minorities discourse centres around the relationship between an allegedly readily integrating state and supposedly non-integrative minorities. The popular mantra that integration is 'not a one-way street', constantly repeated by public officials and journalists in this country, implies that minorities are not doing enough to embrace the culture and values of the 'host' society. This feeling has intensified since a heated debate over the speech by the Turkish Prime Minister in Cologne, who declared in front of thousands of Turkish-German listeners that, while engaging in German society, they should resist the pressures to assimilate. This warning caused a storm of protests in the German press and by politicians, who saw it as a proof of the unwillingness of the Turkish diaspora to integrate in Germany.

Education, participation, naturalization – the three

upcoming issues Nevertheless, the discussion about the place of minorities in Germany can only be productive if issues of German identity, and not only those of minorities themselves, are on the table and the systemic problems of the host society are honestly and thoroughly confronted. Regardless of its various discursive forms, three major topics will determine the near future of the minorities debates. For all three of them such an in-depth understanding of minorities issues is a prerequisite. These topics can be summed up as the trio of education, participation and naturalization.

The high social segregation within the three-tiered German schooling system is breeding ethnic segregation, with migrant children cut off from access to high quality education and subsequently to employment opportunities. Sooner or later the systemic wrongs of the current school structure will have to be corrected to prevent the total collapse of the increasingly diverse society.

While the policies of the state are aiming at accelerating the social integration of ethnic minorities, their political participation is lagging behind. Identifying and promoting political leaders of migrant background and engaging minorities in political debates on all issues of societal importance will be the next challenge for Germany.

Finally, as a new generation of children of foreigners living in Germany will be approaching the age of eighteen, they will be required to give up either their German citizenship that they acquired by birth, or the citizenship that their parents have passed on to them. Such is the requirement of the reformed Naturalization Act, which introduced *ius soli*, but endorsed the public reluctance towards the concept of dual citizenship, which it tries to restrict. The tension evident in this law is not sustainable and the question of dual citizenship will very soon become one of the most debated issues: a topic that will touch upon the hidden and unresolved issues of fearing double loyalties and dealing with multiple identities.

A new step in the minorities debate?

We will only be able to address these and many other issues if we begin framing the next stage of

the minorities discourse, in which technical and pragmatic politics will merge with an honest process of self-redefinition of the German society as a whole and not cloud it. The European dimension of our new and diverse 'self' could become a valuable catalyst along this path.

Sergey Lagodinsky is a Fellow at the Global Public Policy Institute (GPPI), Berlin.

The Netherlands: The status of minorities

Minding the minorities: a brief look at the public debate on migrants in the Netherlands

Crista Huisman

Shortly before Barack Obama was elected as the next president of the United States, it was announced in the Netherlands that a Dutch national of Moroccan origin would become mayor of one of the Netherlands' biggest cities. Mr Ahmed Aboutaleb, who emigrated to the Netherlands at the age of fifteen and who holds both nationalities, will soon be inaugurated as the Mayor of Rotterdam. As in discussions surrounding Obama's candidacy, both supporters and opponents strongly emphasize Aboutaleb's background. At issue are not his knowledge and experience, but the fact that he is also a Moroccan. 'He comes from Amsterdam and supports Ajax Amsterdam football club, but the worst of it is that he holds two passports⁷', says Ronald Sørensen, the chairman of the Rotterdam-based political party Leefbaar Rotterdam, which is ideologically related to the assassinated politician Pim Fortuyn⁸. Dries Mosch, municipal council member for the party, said 'Aboutaleb has dual citizenship and is a Muslim besides. So of all people, he is the one to run a city in which a large part of the immigrant population categorically refuses to integrate? It's unbelievable!⁹'. It is striking how the appointment of a mayor of one of the largest cities in the Netherlands prompts a discussion that concentrates on the candidate's origins instead of his qualities. Many seem to think that suitability for the job is (in this case) a matter of background, rather than of assets such as vision and experience.

The foreign media regularly reports that the Netherlands has lost its reputation for tolerance and seems instead to have turned sharply towards

xenophobic sentiments. Indeed, international comparative surveys reveal that Dutch nationals are more negatively inclined towards Muslims and Islam than nationals of other non-Muslim western countries¹⁰. The issue of ethnic minorities is at the forefront of public debate. The theme continues to feature prominently, from the Dutch round table meetings on the *Res Publica* to a succession of research reports. Thus, the Ministry of the Interior and Kingdom Relations concluded in 2006 that the theme of 'social cohesion and the integration of minorities'¹¹ is one of eight challenges facing Dutch democracy. The theme also prompted a parliamentary inquiry into the integration policy of the Dutch government¹².

This article discusses how Dutch citizens respond to ethnic minorities and how this affects Dutch society as a whole. Why has the appointment of Mr Aboutaleb as Mayor of Rotterdam provoked a discussion that concentrates almost entirely on his Moroccan descent?

The Netherlands has always been an immigrant nation. Ever since the Golden Age, migrants have migrated to the Netherlands for work or to settle permanently. This has given the Netherlands its reputation for hospitality. Yet this reputation is largely due to the fact that the Netherlands has always needed immigrants for its workforce. Broadly speaking, whenever employment opportunities declined, so too did Dutch hospitality, while the public debate on immigration grew louder. The current debate on minorities focuses particularly on the arrival of Turks and Moroccans. They came as migrant workers during the second half of the 20th century and the general assumption at first was that, in time, they would all return to their home countries. For that reason, efforts were made to ensure that these immigrants remained on the margins of Dutch society. In the 1990s, however, the emphasis shifted to participation and individual skills, on the assumption that these immigrants were in the Netherlands to stay. With policy and public

7 *Algemeen Dagblad*, 17 October 2008

8 Pim Fortuyn mobilized large numbers of voters in 2002, in part through a negative attitude to Islamic newcomers and migration.

9 NRC, 17 October 2008

10 WRR-report 'Dynamiek in islamitisch activisme; aanknopingspunten voor democratisering en mensenrechten', 2006

11 Ministry of the Interior and Kingdom Relations, '*De Staat van onze Democratie 2006*', 2006

12 The Blok Commission, '*Bruggen Bouwen*', 2004

debate centring on 'migrants', not much distinction is made in terms of their cultural and social background.

Despite its reputation as a tolerant country, Dutch acceptance of foreigners has always had a pragmatic motive. Migrants were tolerated as long as they did not pose a threat to the position of the Dutch people themselves. However, as soon as the opportunities for employment decreased, the tendency to stigmatize and shut out migrants rose. From the farmers' party of farmer Koekoek in the 1960s, the openly racist NVU that was founded in 1971, and the Centrum Partij from the 80s onwards, the public debate on immigration increased sharply. In 1991, this debate received a powerful impetus through the argument of the then leader of the VVD liberal party, Frits Bolkestein, that Islam and western values were incompatible. This marked a turning point in the public debate, and from then on the term 'migrants' basically referred to Muslims and Islam. It was therefore not so much the terrorist attacks of 11 September 2001 that sparked off the debate about Islam, as many people seem to believe, but it went further back to the remarks made by Bolkestein (among others), and to the article about 'the multicultural drama' by sociologist Paul Scheffer, published in 2000. In this article, Scheffer sharply criticizes the immigration policy of the Dutch government and warns against its effect on Dutch Muslims. In his view, Islam in its 'pure' (fundamentalist) form constitutes a threat to Dutch identity.

Along with other worldwide developments in economic and political areas, particularly relating to trans-national institutions such as the European Union, the arrival of immigrants in the Netherlands has provoked a search for Dutch identity. This quest is characterized by a distinction between 'us' and 'them' and, more specifically, between Dutch identity versus Islamic identity. Problems affecting Dutch society such as criminality and (the threat of) terrorism are directly linked to Islam as a whole and placed in direct opposition to Dutch values. This social dichotomy largely goes unquestioned in the public debate; Islam has become an umbrella concept and is addressed as such. As one survey reports: The public debate projects an image of Islam that is based on the conviction that there is such a

thing as Islamic culture¹³. But what is this 'Islamic culture'? And how are we to define this Islamic culture in the Netherlands, which has become home to Muslims from every corner of the globe and of various religious and political persuasions? Despite the many different viewpoints and the intensity of the public debate, practically no mention is made of the variety and diversity of Dutch Muslims.

International developments, in which the tension in the Middle East and the war in Iraq feature prominently, necessitate a refinement of the debate in the 21st century. Where discussions first centred on migrants and later on Islam, in recent years it has become clear that the idea of a single, uniform Islam is untenable, and the public debate is starting to recognize distinctions in terms of background. The debate currently centres on Moroccans, a group that has increasingly been the subject of negative publicity. High criminality rates among young Moroccans are prompting politicians to make bold statements and are fostering discrimination in all sorts of areas. This situation, which suggests an improvement in the position of other (ex-)migrants, is a step backwards for Dutch Moroccans. An additional problem is that the youngsters under scrutiny have long since lost their intimate ties to Morocco. Although their parents or grandparents may have come from there, these youngsters were born and raised in the Netherlands and their links to Morocco are largely symbolic. Stigmatizing and ostracizing Moroccans means that some of these youngsters feel driven to provoke and disrupt the world from which they feel excluded. As a result, they are recreating a situation from which most Moroccans are attempting to escape¹⁴. In this way, the debate only fuels a vicious circle.

As explained, in recent years the public debate on minorities in the Netherlands has shifted focus and now increasingly concentrates on Dutch Moroccans. Despite this shift, the discussion continues to lack nuance, as the meaning of terms such as 'migrants', 'Islam' and 'Moroccans' is barely addressed. The debate focuses on problematic issues and the lack of

13 R.Th. Smit *'De tragiek van het multiculturalisme'*, 2005

14 E.G. Blommestijn *'Leven tussen Nederlanders; Processen van mentaliteitsvorming- en ontwikkeling bij Marokkaanse jongeren in Nederland'*, 2004

nuance actually tends to exacerbate the problems due to the adverse response of some members of the group to the discussion. While seeking a solution to the problems, the current debate instead seems to encourage a far-reaching stigmatization and discrimination of a specific group within Dutch society. The only way to prevent this is to conduct a discussion which is informed by facts rather than assumptions. We all have a stake in a balanced discussion that acknowledges problems due to socio-economic, cultural and other factors, while keeping sight of the diversity within population groups (Moroccans, Muslims, migrants). In this way too, we can prevent entire communities from suffering on account of a small, yet vexatious, group of delinquents. This plea ties in with people like Aboutaleb who, time and again, insists that he should not be defined by reference to his ethnic background, but be assessed for the quality of his ideas. Aboutaleb personally sees his nomination as mayor from a wholly different angle: 'Rotterdam is a world city, and I am a citizen of the world'¹⁵. Superfluous labels such as 'Moroccan' only seem to serve those who wish to further social divisions and undermine the public interest.

Crista Huisman studied sociology at the University of Amsterdam. She is involved in the work of the Forum voor Democratische Ontwikkeling (Forum for Democratic Development) as adviser and project coordinator.

15 *De Wereld Draait Door*, 4 November 2008

Poland: The status of minorities

Ireneusz Krzemiński

We must start with the description of the kind of minorities we are going to discuss. First of all, this concept is associated with national and ethnic minorities, but in a modern society we can also talk about other minorities – cultural minorities, mainly the LGBT minority (Lesbian, Gay, Bisexual and Transsexual people). We can further distinguish the minority of disabled people, as well as other particular minorities, which stand out in the life of a society. Let us start, however, from the case – perhaps most essential for the European *res publica* – of national and ethnic minorities.

The Minorities Bill, passed in 2005 after very long debates, states that those groups of Polish citizens who are not ethnically Polish, but who have states of their own belong to national minorities (this includes Czechs, Lithuanians, Slovaks but also Jews; all in all the Bill lists nine nationalities).

An ethnic minority is an ethnic group, distinct from Poles, which has no state representation. The Polish Bill lists four such minorities: Roma, Karaims, Lemks and Tartars. It is to the credit of this Bill that it makes it possible to extend the list of national minorities. So it gives a chance to new immigrants (for example, a sizeable Vietnam-ese minority). Research – mainly by Sławomir Łodziński¹⁶ – shows that the Polish Constitution of 1997 and the subsequent Minorities Bill were very well received by national minorities and provided special rights for them, mainly the development of schools in their languages and subsidies from the state budget to secure and develop their cultural heritage. But national and ethnic minorities are really very small in contemporary Poland; according to the latest census of 2002, only 1.23 per cent declared a different nationality. Researchers estimate that minorities are bigger now, but not more than 3-5 per cent of the whole population¹⁷.

16 S. Łodziński, *Równość i różnica. Mniejszości narodowe w porządku demokratycznym w Polsce po 1989 roku*. Scholar, Warsaw 2005.

17 S. Łodziński, op. cit., charts p. 95-95.

Social attitudes, however, differ from acts of law. Just the fact that work on the Minorities Bill took such a long time is significant. The discussions in the Polish parliament proved that Poles are very attached to their national identity as a purely civic identity and consequently, to their language. Of course, the Bill gives Kashubians the right to use their own language, but the right to bilingual geographical names was passed only with difficulty and was quite restricted. The dramatic history of Poland can justify that, but my own research shows that a significant part of the Polish population only reluctantly accepts the principle of equality of all citizens' rights being extended to minorities. Moreover, Poles are in general very happy about the fact that their society consists of such a huge national homogeneity. It is rather only a relatively highly educated minority who points out the size of the contribution of national and ethnic minorities to the social and cultural life of Poland. This minority maintains that the presence of numerous groups representing other cultures is more enriching than threatening.

I think that at the same time the attitudes of Poles are in the process of very significant change. Firstly, research from the beginning of the 21st century showed, on the one hand, the presence of negative national stereotypes towards the traditional minorities residing in Poland. It also showed that a significant part of the citizenry understands the national and state identity in a characteristic way in which 'others', ethnically 'non-Poles', are generally treated with suspicion. They are always singled out and labelled 'they' and are not entirely 'ours' even if there is no questioning of their formal civic rights. I think that this labelling is very hurtful for immigrants to Poland, especially those whose skin colour and other physical features make them stand out visibly. At the same time negative national/ethnic stereotypes are used by some Poles to mark specifically Polish features to distinguish themselves in comparison to other, self-evidently 'worse', nationalities. Both Jews and Germans are special, imagined national minorities that play an important role in Poles' self-definition: a Pole is not like a Jew (or German), because he does not behave like one. 'They' always act in their own self-interest, but a Pole is faithful to the promises he has given, even against his own interests. The perception is, therefore, that this is why Poles have suffered so

heavily throughout history; they suffered because of their faithfulness to moral values.

On the other hand research has shown that there has been a growing attitude contrary to the one just described, which casts aside the traditional anti-Jewish, antisemitic and anti-German stereotypes. Young Poles define the national identity differently, mostly not in opposition to others and not based on the idea of 'suffering for values'. At the same time the younger generation of Poles, especially in the past few years, is taking advantage of open borders and our presence in the European Union. This experience is greatly changing popular ideas and social attitudes. It reveals the national and ethnic differentiation of the world, and it seems to me that it significantly influences the growth of a practical tendency of tolerance towards otherness.

Generally speaking, the situation of national and ethnic minorities in Poland, especially traditional ones, is rather good. The greatest problems are with the Roma, whose stereotypes do not get challenged by encountering them in everyday life, unlike those of the symbolic Jew and German. The Jewish minority is growing especially rapidly, and it is worth mentioning a surge of young people returning to their Jewish roots, often against the wishes of their assimilated parents. There are also a significant number of associations, mainly local, which work against antisemitism and prejudices towards other nationalities, as well as reconstructing the presence of Jews and other minorities in their towns or regions.

The situation of other minorities, mainly lesbians and gays, is different. Young, politically committed sociologists even maintain that the national/ Catholic tradition (a pre-war ideology created by a nationalistic formation, National Democracy) has changed the target of its prejudice. The traditional enemy of a Pole/Catholic – which used to be a 'Jew' – is supplanted now by a 'gay' ('the judaization of homosexuality', according to Adam Postolski, speaking at a conference organized a few years ago at Warsaw University). Indeed, the social movement of lesbians and gays is particularly treated by representatives of Polish Catholicism as an enemy of the 'natural' social order and the newspaper *Nasz Dziennik* compares it to communist and fascist

movements which wanted to destroy the European tradition. The analysis of public Catholic discourse in Poland shows the occurrence of hate speech towards gays, or more generally, towards people from the LGBT category.

Attitudes, as well as social behaviour, are closely bound up with politics. The two-year rule of Law and Order, a party drawing on the national/Catholic tradition, activated anti-gay and anti-lesbian actions and also mobilized anti-German opinion. Now we can observe the consequences. With the advent of the new government, manifestations of hostility towards sexual minorities and anti-German or anti-Jewish actions almost completely disappeared. Research from spring 2008 shows, for example, that a year after the fall of the Law and Order government, the number of attacks on lesbians and gays had fallen by several per cent. Admittedly, it does not mean that very negative and humiliating stereotypes of sexual minorities have disappeared from public debates, but voices of solidarity and support for them are also present.

I think, however, that we have a process of very significant change, even towards sexual minorities. But the attitudes of people in Poland differ in cities and small towns and among the educated and uneducated, and there are also important regional differences. Certainly the eastern part of the country is much more inclined to show hostile attitudes and behaviour towards 'the Other'. Generally speaking, people there are less tolerant. I think it is an important fact that intolerance in Poland is closely connected with national identity. Intolerance is the effect of the ruthless defence of the 'good name' of Poles and Poland. The very traditional image of a moral Pole/Catholic, of a faithful patriot, is strongly linked to the dislike of 'misfits' of all descriptions!

Poland is very divided, and I think there are deep divisions within the Catholic Church and Catholic society, though there is too little public debate about it. The attitudes of tolerance and intolerance, of openness towards others and of a patriotic and xenophobic pride are tightly woven into politics. It may not be a direct link, but it is important. Admittedly, the nationalist slogans are not explicit during election campaigns, but nationalist attitudes are clearly bound to particular political parties, while

the attitudes of openness and a patriotism that is not hostile towards other nations are associated with the voters of other parties. It can be said that world-view and national identity play a vital role in determining voting behaviour and are surely taken into account during campaigns, but are generally not explicit in electioneering slogans. If so, one can say that politics can also play another role in shaping voters' attitudes: not only can they exploit existing divisions in world-views and national attitudes, but they can also intentionally influence and strengthen openness towards others and pride in their own nation, without dislike and hatred towards others. However, at present in Poland such politics are weak.

That is why an important and new phenomenon associated with Poles going abroad is comforting. Even if those are temporary residences in order to work – living in England, Ireland and many other countries of the European Union – they significantly change the attitudes of Poles, especially young ones. Therefore one thing is certain: the open attitude of Poland and Poles towards Europe, the very positive judgement of Poland's membership of the EU and the huge mass of Polish citizens going abroad to work – all those factors are changing Poles (and all the more so those who are less educated and come from small towns or villages) in a direction that makes them good candidates for members of the *res publica*. Thanks to this, a huge process of changing attitudes towards others is clearly forming, both towards other nations and towards minorities. This is a spontaneous grassroots process that is perhaps more important than the weak efforts of politicians and the state to support open attitudes towards others, attitudes that are sympathetic and directed towards cooperation and the acceptance of difference and otherness.

Ireneusz Krzemiński is a Professor at the Institute of Sociology, University of Warsaw.

Sweden: The status of minorities

The emergence of a migrations discourse in Sweden

Qaisar Mahmood

Introduction

Sweden has always been a country of immigration and Swedish society has always been marked by its diversity of lifestyles. There are two widespread misconceptions in Swedish society; the first is that immigration is only a modern phenomenon and the second is that in the past, Sweden was always an ethnically homogeneous country. However, there are two conceptions that are correct – the first is that comprehensive immigration has changed the composition of society over a short period of time; the second is the growing acknowledgement that the effects of immigration need to be dealt with by the political process.

Two questions have, to varying degrees, been the focus of policies during the last 50 years.

- 1) How can we create an equal and fair society for all our citizens, regardless of birth, or the colour of their skin or hair?
- 2) How can we create cohesion and participation in a society marked by diversity?

The answers to the questions have varied through the ages, but a historical recap of how ethnic and cultural diversity has been handled politically from 1975 onwards shows that 'we-and-they-thinking' has always been present, although the official rhetoric has been dressed up in new words. Until now, inquiries and policies have always been intended to deal with the situation 'for others' rather than trying to update and adapt the official institutions and general policies to a new population set.

They should change to become like us

The first official descriptions of Sweden as a society characterized by ethnic and cultural diversity appeared in public documents in the 1950s. Members of Parliament started to address issues

relating to minorities and the status of immigrants and other so-called native minorities in parliamentary bills (SOU 1996:55, page 26). However, it took another decade before comprehensive policies were formulated to address what was perceived as a multicultural society. During the 1960s immigration was dominated by demands for a larger labour force to meet the needs of the expanding Swedish industry. About the same time the Swedish welfare model was being expanded in order to meet the social needs of the residents. The purpose of the introduction of the general welfare policy was to iron out differences in economic and social conditions.

During the expansion of the welfare state, no specific measures were introduced for immigrants that were perceived as any different from those for the rest of the population. As far as their rights were concerned, foreign nationals with the right to reside in the country were treated, in principle, on equal terms with Swedish citizens. The same applied to obligations. The same demands were put on Swedish and foreign citizens. The only exception was the obligation to do military service. The policies and procedures were, in other words, with some exceptions, the same for all who lived and worked in Sweden.

The same obligations and rights did not mean, however, that there was no difference between those who had immigrated and native Swedes. Those who had immigrated were seen as exotic, and often as transient elements in Swedish society. The Swedes were the ones who were considered to share a national culture. Those who had immigrated were expected to adopt 'Swedish' values and customs. They were expected to adapt to the prevailing view of the Swedes and thus assimilate into Swedish society. The idea of assimilation meant that those who were perceived to deviate from the norm were expected to discard their specific character and adopt the values, customs and habits of those who were seen as part of an ethnic majority.

It is worth bearing in mind that the expectations of assimilation were based on good intentions, because the objective was to improve the social status of immigrants by making them more like the

majority population. Unfortunately, even if the intentions of assimilation are good, it almost always leads to the personality of those who are expected to assimilate, directly or indirectly, being undervalued.

Those required to assimilate probably deal with this using three main strategies. The first strategy might be to tone down their perceived differences. This process can be both enforced and voluntary. For some individuals, however, it is impossible to choose assimilation, since their appearance sets them apart from the majority. A second approach might be to resist assimilation by creating a distinct subgroup, together with other individuals who are perceived to deviate from the norm. These subgroups create and maintain a separate group identity. This group can be used to make a political bargain for limited autonomy, for example, in religious, linguistic or local political issues. The third alternative can be separation, which involves the creation of more or less self-sufficient enclaves with other similar people.

They don't have to become us

In the mid-1960s the public debate centred more and more on the need for special social action by the state for those who were perceived as different, ie. immigrant or other linguistic and cultural minorities (SOU 1996:55, page 27). Experience showed that a general policy was insufficient to create equal living conditions between those who had immigrated and natives. During the 1960s a number of special measures was introduced to target immigrants. Language courses (Swedish for immigrants), which were introduced in 1965, were the first state measure aimed at immigrants. Shortly afterwards, for example, written information about Sweden was published in different languages, interpreters were provided and the first dedicated offices for immigrants were established. A special policy for immigrant and other linguistic, religious and cultural minorities began to take shape. They would no longer be like us; they would continue to be themselves.

The government at the time appointed a special immigration inquiry which had the task of identifying the immigrant and minority status and proposing measures to create equality in society. In the Bill of the investigation of immigrants and

minorities (SOU 1974:69) guidelines were formulated which would later be the basis for the government proposal 'Guidelines for immigrants and minorities' (Prop. 1975:26). The special policy of immigrants and minorities was expressed in three main words: equality, freedom and interaction. The goal of equality aimed to give those who immigrated to Sweden the 'real prospect' to 'preserve and develop their language and their traditions'. The goal of freedom meant that the linguistic minorities, (that is, all groups in Sweden with a language other than Swedish as their mother tongue) would be given an opportunity to choose whether and to what extent they wanted to maintain and develop their original language and cultural identity. The goal of interaction was about mutual tolerance between the various immigrant communities and the indigenous population. The policy of Immigration and Minorities was introduced in 1975 to deal with differences, which were not perceived as normal. However, it should be noted that the inquiry on immigration assumed that immigrant communities would be seen as minority groups in Sweden.

However, with the creation of its new immigration policy, Sweden abandoned the goal of assimilation for a cultural, relativist and multicultural approach. In order to compensate for the general policy failures in these issues, specific measures would be directed at those born abroad and at their children. The development of Sweden into a multicultural country would be promoted by cultural and linguistic groups, which would be actively supported in order to preserve their language and cultural manifestations. The state proposed that it would have a clear responsibility to maintain those who were perceived as distinct cultural groups. They would be strengthened in their differences.

In the final report of the investigations inquiry into immigration two different types of measures for the creation of a multicultural society were advocated. According to the first type, activities would be directed at people who had recently immigrated and who needed help to adjust to the new society for a temporary period. In the second, the state would take steps to enable different immigrant groups and their children to preserve their original language and cultural traditions in Sweden. Permanent help would

now be provided to people of immigrant origin in their capacity as linguistic, cultural and ethnic minorities. By providing special financial assistance for the voluntary sector and specific linguistic measures (to help people to read their native language) the state would actively promote different languages and cultures that were considered to have their origin in immigration. In both cases, it was the immigrants and their children who were the target audience of this immigration policy.

During the late 1970s, critical voices were heard once again in the general public debate. This time it was about the so-called goal of freedom. Critics pointed out that there were limits to the cultural freedom of choice, that there were fundamental values of Swedish society that were not negotiable. A new inquiry was appointed in 1980 with the mandate to conduct a review of the principles of both immigration and integration policy. One of the findings of the investigation was that the goal of freedom should not be interpreted as meaning that immigrants would be able to preserve their life and their culture unchanged in Sweden, because this was not judged to be realistic. Instead, the aim was to ensure that those who immigrated had the opportunity to maintain and develop their mother tongues, and that they could engage in cultural activities in these languages. The limits of freedom of choice and the space for the cultural relativist approach were to be narrower than before. In the final report, for example, the following information was included about the limits of freedom:

'The rights of ethnic minorities are enshrined in the Constitution Act. The goal of freedom may not be construed as an acceptance of any values that differ from those which are reflected in our legislation, such as equality between men and women, or the rights of children '(SOU 1984:58 s.367).

Us and them should merge into a new we
During the 1980s and 1990s a public debate took place as to whether there should be general or specific policies and government programmes for immigrants and their children. The criticism was that the immigration policy had in all good faith helped to point the finger at 'immigrants' as a homogeneous group that existed per se. In this way a discriminatory world, characterized by a 'we-and-they-thinking', was maintained. Society had been segregated by its breakdown into 'Swedes' and 'immigrants'.

A parliamentary committee was set up in 1994 with the mission to review the entire Swedish immigration policy, in order to submit a proposal for fundamental changes. In the Committee's report SOU1996:55, and the government's subsequent proposal Prop.1997/98: 16, the previous policy was criticized for having helped to link the status of immigration with the status of being different. Therefore in the new integration policy specific procedures for immigrants were to be avoided, for the benefit of a more general policy.

According to the new rhetoric it is the general policy that needs to be changed. Therefore it is not the immigrants who need to adapt but the institutions and policies that need to change and become adaptable for the entire population, including the immigrants. Two approaches were considered to justify the shift in emphasis. According to the first, Swedish society had undergone extensive changes over the last forty years as a result of immigration. Ethnic, cultural and religious diversity is now a permanent part of society and has created new conditions and needs. In order to be able to meet the needs of the population effectively the general policy must also change. According to the second approach, integration would be based on the recognition that the people who immigrated, or who are the children of immigrant parents, do not form a homogeneous group, but are individuals with different backgrounds and a variety of individual characteristics.

One of the cornerstones of the Swedish integration and minority policy, introduced in 1997 with the adoption of the Bill 1997/98:16, is that the Swedish population should not be divided into Swedes v. immigrants, as this is likely to increase segregation and cracks in society. Specific procedures based on the status of immigrants should not be introduced because the public rhetoric states that immigrant people do not form a homogeneous group. It was also considered important to distinguish them from minorities and people with foreign backgrounds. A special set of policies for cultural minorities was created in 2000 in order to deal with specific activities, rights and obligations of the five specific national minorities – Sami, Tornedalians, Swedes, Roma, Jews (Government factsheet 2006:24). The application of integration shows, however, that

policy has largely consisted of special procedures. Nevertheless, people were given labels, such as 'Swedish' or 'immigrants'. The very concept of integration is used (in contrast to its original intention) as an adjective to describe whether the immigrant people have achieved a certain standard. Immigrants are expected to be 'integrated', which is the same as assimilated, to a standard which is perceived as Swedish. The concept of segregation is used to describe the situation, since immigrant people do not live or socialize with people who are perceived as Swedes.

The bill which supports the proposal for integration proposed that a number of terms would be replaced, the use of the term 'immigrants' in the legislation would be reviewed and the concept of multiculturalism would be exchanged for that of diversity. The term multiculturalism was considered to have become too loaded (Prop. 1997/98: 16 Page 1). Diversity was proposed instead of multiculturalism as it was considered to be a more general concept. The bill concludes: 'Because the concept of multiculturalism is loaded with so many different meanings, the government has increasingly moved to talk about the diversity of society instead. The diversity that relates to the assessments and proposals in this bill is not limited to ethnic diversity, but also includes cultural, religious and linguistic diversity.' (Prop. 1997/98: 16 page 19).

A concept that was introduced during the era of the new integration policy is the notion of ethnicity. In the general debate ethnic and cultural identity are often used as synonyms. The concept of ethnicity has its origins in the Greek word 'ethno', which means people. The most common approach to ethnicity, the primordial vision, is characterized by the idea that every person carries a sense of belonging within themselves which is attached to the markers provided by language, birthplace or biological criteria. This approach to ethnicity assumes that human beings have an inherent tendency to focus primarily on promoting the survival of their own ethnicity. Ethnicity is assumed to be a part of the individual's innermost true essence (Hutchinson 1994 page 33). The concept of race comes from similar ideas that the people who belong to the same race have more in common with each other than with others who belong to other races.

The experience of the implementation of integration also shows that ethnicity is used as an acceptable concept to point the finger at people who have dark skin and hair, without the use of concepts such as 'alien' or 'immigrant'. In the integration process, it is therefore the concepts of ethnicity and multiculturalism which contribute to maintaining a 'we-and-they-approach'. Swedish historian Mikael Azar says, for example, that: 'It seems that the new obsession with pure cultures and ethnicity has simply replaced the notion of pure race with the notion of pure culture, without changing the racial thinking behind' (Azar, SOU 2005:41, page 169).

Historically, the concept of ethnicity has also been used to categorize people seen as primitive and inferior. In the United States the concept of ethnicity was frequently used in the late 19th century to describe the Jews, Irish, Italians and others who were regarded as inferior to the rest of the population who were mainly of British descent. In the same way, ethnicity in science is used in order to understand the strains or indigenous people of the communities who were perceived as primitive (Thomas Hylland Eriksen: 1998).

The same is true in today's Sweden, where something is defined as 'ethnic', which in turn is often a euphemism for something that is 'un-Swedish' or deviates from the norm. The 'other' is always someone who is ethnic or multicultural. Those who are perceived as the norm (Swedes) in society are defined either in ethnic or cultural terms. The Canadian researcher Carl E James has expressed this as follows: "Those who see themselves as being without culture also regard themselves as being without race and ethnicity. They simply identify themselves as 'Canadians'. For these individuals, culture is identified as that which is possessed by Others, by people with a particular 'look,' who are often characterized by their skin color and /or other physical features, as well as by dress (or costume), food, religious practices and other 'visible' factors." (James, Carl E.: 2003).

Swedish policies for immigrants and minorities have always fractured and divided society rather than integrating it into one unit. Nothing has actually changed during the past 60 years of different approaches to create a durable society characterized

by its diversity.

Unfortunately a middle position in the public debate is missing: how everyone living in Sweden could become part of a new 'we-ness'; how the structures of society could be updated so they suit today's population and do not discriminate against all those who do not match the traditional picture of the blond, blue-eyed Swedish Viking.

The biggest challenge when it comes to working for a sustainable society is therefore not about how we can get more immigrant people into employment. It is about how we can facilitate the emergence of a new *res publica*, a new kind of Swedishness, which enables solidarity among Swedes regardless of colour, religious identity or place of birth. The feeling of togetherness and solidarity is important because it enables a community to develop where everyone takes responsibility for the common good. The notion of Swedishness is important because it indicates who can be a full citizen and who should be included. In order to achieve this without ending up in the trap of assimilation, it is of the utmost importance that one should be able to be parent, a Muslim, a football fan and Skåne at the same time as one can identify – and or be identified by others – as a Swede.

Swedish society and the perceptions of 'Swedishness' need to be modernized so that they are in tune with the contemporary population, which is marked by the diversity of its lifestyles, values and ideals. The future of integration, no matter what we choose to call it, should therefore focus on promoting an ongoing discussion about what should constitute the glue that binds all of us who live in Sweden together.

Qaisar Mahmood works at the Swedish National Audit Office. He is responsible for the examination of public administration policies.

The United Kingdom: The status of minorities

The road from multiculturalism to integration or a non-summer in London

Rob Berkeley

I am writing this piece during what is soon to be officially ascribed the worst summer weather since records began. Yet it was a summer in London; a summer full of events and festivals, where the diversity of this city is paraded as a badge of honour, even in the rain.

This is an earnest attempt to describe the 'status of minorities'. Starting with reference to the weather at a series of outdoor parties may seem a rather glib beginning for such a serious topic. However, I want to argue that the status of minorities in the UK is defined by widespread acceptance and appreciation of an everyday, dynamic multi-ethnicity, coupled with leaden-footed policy responses that serve to create boundaries between people through failing to understand the dynamic and mutable nature of identities. It is within this context that a robust and vibrant *res publica* becomes even more crucial as the space in which citizens can be free to draw solidarity with others and be free to live out their complex identities. I want to reflect on the significance of two events – massively varied in scale – yet both with resonance for our understanding of the status of minorities in the UK: UK Black Pride and the Carnaval del Pueblo.

My summers, like those of many my age in London, are punctuated by a series of events and festivals. Some events reach my consciousness only through increased stress on the already hard-pressed public transport system. Others are significant dates in my diary. Some of these events are ethnically/minority group-based; from the London Mela, to the Brick Lane Festival, the Liberty Festival (celebrating the contribution of deaf and disabled people), Pride London and Notting Hill Carnival. Others are not; Shoreditch Festival (arts), Lambeth Country Show (community), Rise (anti-racism, until the intervention of our newly-elected mayor), or the London 2012 Olympic handover party. All of them offer the opportunity for Londoners to meet with each other,

enjoy a shared cultural experience and understand each other better. None of them acts as a panacea for all social ills.

Two relatively new festivals have joined the party. Carnaval del Pueblo (CdP)¹⁸ is less than ten years old. In 1999, 4,000 people attended, in 2007, numbers had reached 13,000. CdP claims to be '*the event of the year for all Latinos and lovers of their culture.*' UK Black Pride, (UKBP)¹⁹ is an annual event created to promote unity among black people of African, Asian, Middle Eastern, and Latin American descent who identify as Lesbian, Gay, Bi-Sexual or Trans (LGBT). In their third year, the Pride event attracted over 1,500 people and was supported by a range of organizations, including the police, trades unions and faith-based organizations.

CdP is evidence of the hyper-diversity that is coming to typify London. Previous patterns of migration have occurred over longer periods, allowing for appropriate responses to be developed over time. The ease of international travel, the immediacy of international crises and the responses of individuals facing ongoing global inequalities, have made the speed at which patterns of migration can change much swifter. For Britain, the until-recent strength of the economy, and the primacy of the English language are assets, but also make it an attractive place to emigrate to. The arrival and impact of Latin American communities on London is signalled by events such as CdP.

Whereas policy on race equality has, in the past, been focused on white, black and Asian people, the realities of modern patterns of migration and diversity within these broad groupings and the speed of change, has meant that these categories are proving to be inadequate. Policy has been playing catch up rather than understanding the 'hyper' diversity of UK society²⁰. If we are to understand the identifications and heritages that people have within our society we must move beyond a notion of Britain as black and white to a

18 www.carnavaldelpueblo.com

19 www.ukblackpride.org.uk

20 See S. Vertovec (2005) *The Emergence of Super-Diversity in Britain* Compas Working Paper www.compas.ox.ac.uk Oxford: Compas

The status of minorities

much more diverse community of communities and individuals²¹.

UK Black Pride highlights the importance of understanding and responding to multiple identities. While people's ethnic backgrounds are often important to them, they are not the sum of anyone's experience or identity. The identifications with which we operate are shifting, mutable and dynamic. In terms of policy this becomes particularly salient where the communities with which we identify are marginalized – as women, people from minority ethnic groups, people with disabilities, people with minority sexualities, or marginalized by our age. None of these influences is felt separately but combines to create a new experience, for example black women have a distinct experience based on their gender and race that is different to that of black men or of white women. The challenge for policy is to respond not to monolithic conceptions of 'race' but to appreciate the diversity of experiences. The current policy confusion about people of mixed heritage serves to highlight the urgency of this challenge. UKBP offers Black LGBT people an opportunity to articulate their common experiences, to seek solidarity, and to enable others in society to better understand their experiences.

Both of these festivals run counter to current trends in policy which seek to suggest that multiculturalism necessarily leads to social disintegration and that ethnicity and/or faith are in some way undesirable as motivators for action, in that they create exclusive, inward-looking communities that have little interaction or solidarity with their fellow citizens. Some minorities – Muslims in particular – are seen as inherently problematic because they purportedly emphasize their differences rather than highlight that which is shared in common. Nonetheless, these festivals are attended by significant numbers of Londoners. Policymakers must be perplexed by their ongoing popularity and indeed growth.

In 2001 we were right to be concerned. Politics had failed and people took their frustration out on to the streets. Engagement in some northern mill towns came to mean a static vision of cultures and ethnic groups that operated in parallel spaces rather than

together and opportunities to communicate across ethnicized boundaries were few. In part this was a function of political expediency in static political spaces, but also a power play from those who wanted to police their communities, essentialize them and keep them 'pure'. (A recent trip to Northern Ireland confirmed the excessive damage such approaches engender). Identity politics were being used, not as a means of freeing the potential of all and promoting equality, but to put up barriers, carve up resources and resist change. This was hardly the multicultural dream!

Yet, in our concern about Muslim exceptionalism and disorder in the streets, I wonder whether we compounded hasty conclusions about the problem and then, subsequently, the solutions. In the wake of the terrorist atrocities of 9/11, famously, a lot of bad policy has been adopted (remember Iraq?). Could an over-emphasis on Muslim communities and 'integration' be a mistake? The discourse of integration which has impacted most heavily on Muslim communities has affected to varying degrees the way in which all visible minorities are viewed in Britain.

Engagement around integration alone is difficult and it is understandable why. The benefits for any group of there being integration without equality and diversity are pretty thin. It is being asked to 'integrate' without a clear picture of what it is that you are being asked to integrate into. It is being asked to integrate on the basis that you leave behind what you already have. It is being asked to integrate without any acknowledgement that you will be able to influence the shape of the whole. It is being asked to integrate into power structures that may leave you in a disadvantaged position.

Minorities are being exhorted to integrate, but despite the festivals and parties, they are being asked to integrate in a context in which many face discrimination in employment, housing, health, education and the criminal justice system. Cohesion and integration are not the *only* values for a good society. In particular, fairness, rights and social justice are valuable for their own sake and should not be defended only because they realize a more cohesive and integrated society, however valuable we may think this is. Cohesive societies are not good in

21 See *Commission on the Future of Multi-Ethnic Britain* (2000) London: Profile Books

themselves unless the grounds for that cohesion are morally acceptable.

Hence an understandable reluctance from many quarters to engage with a seemingly endless debate on 'Britishness' which reinforces structures that have never delivered for marginalized communities, but kept them in thrall to a racist discourse which denies their humanity and agency.

This summer, while standing in a series of muddy fields, wearing shorts but carrying an umbrella, I saw a side of Britain that policy struggles to keep up with. People were forming their identities as Londoners *and* as members of minority groups – offering a constant challenge to the administrative urge to essentialize, define and control them, but exploring what it might mean in 2008 to belong to a number of communities that make up our community of communities and citizens. For the lesbian and gay Muslims at UK Black Pride, or the young white women from the largest social housing estate in South London dancing to Latin hip hop at CdP, identity is far from static, and far from settled; identities being formed and re-formed in the *res publica*.

Like the weather, multiculturalism forms the everyday backdrop to our experiences. The policy retreat from multiculturalism in favour of integration is in part an admission that minorities offer a challenge to policy-making that struggles to be sensitive to rapid change and dynamic identity formation. As winter draws in and the non-summer fades, the task for a *res publica* is to create spaces in which our common struggle for better lives is not obscured by those who would, like King Lear on the heath, curse the weather for the shared challenges that we face.

Dr Rob Berkeley is Deputy Director of the Runnymede Trust, an independent policy-research organization focusing on 'race' and social policy.

Germany: Religion

Hasret Karacuban

Religious Diversity

The dominant religion in Germany is Christianity. Social and political structures in Germany are highly influenced by the Christian churches, which is best demonstrated by the fact that the biggest welfare organizations are connected to Catholic and Evangelical Churches and that one of the two big political parties, the CDU ('Christlich Demokratische Union' – 'Christian Democratic Union'), finds its main motivation in a Christian world-view.

Nevertheless, Germany has developed a noticeable religious diversity during the last decades, mainly because of the high number of immigrants and their children from various countries. Moreover, a large number of Germans have left the Christian churches, either converting to rather popular religions like Buddhism, or joining one of the various religious sects. We now have about 50,000,000 Christians, 3,300,000 Muslims, 200,000 Jews, 90,000 Hindus and 245,000 Buddhists in Germany.

While most of the smaller religious communities are hardly noticed, Muslim communities are closely observed. The reasons for this special attention are the high number of Muslim immigrants in Germany since the 1960s, their distinctive features such as their skin and hair colour and clothing, the war on international terrorism, which dominates the media coverage and links terrorist acts to Islam and the fact that Muslim communities are growing fast while the Christian churches are struggling with the ongoing high rate of secession. But the main problem for the Muslim communities in Germany is the fact that they have not received acknowledgement as religious communities in a legal sense. Three of the four umbrella organizations were founded by Turkish immigrants of the first generation and have differing political positions. Only the 'Zentralrat der Muslime in Deutschland' ('the Central Council of Muslims in Germany') has defined itself from the beginning as a German organization and has been trying to unite the umbrella organizations in order to achieve the

legal status of an acknowledged religious community and to speak with one voice as German Muslims. Finally, in 2007, these four umbrella organizations came together in the *Koordinationsrat der Muslime in Deutschland* (the Coordination Council of Muslims in Germany) and are now working on the process of becoming an acknowledged religious community.

The Jewish communities in Germany have also been experiencing a crucial change since the 1990s. After the collapse of the USSR a large number of people of German origin came as 'repatriates' (*Aussiedler*) and 'late repatriates' (*Spätaussiedler*) to Germany. Many of them were Jews. Before 1989 there were about 30,000 Jews in Germany. After 1990 their number rose continuously. Now we have 105,000 Jews organized in the *Zentralrat der Juden in Deutschland* (the Central Council of Jews in Germany), 5,000 in the *Union Progressiver Juden e.V.* (the Union of Progressive Jews) and 90,000, who do not belong to any Jewish organization, in Germany. So 170,000 of the 200,000 Jews in Germany are immigrants, or have an immigrant background. This change in the community structure of Jews in Germany confronts the Jewish communities with new challenges which concern immigration, rather than religion.

Another growing religious community is the Buddhist community. With 245,000 members, the Buddhist community is the third biggest religion after Christianity and Islam. Even though the Buddhist community is numerically bigger than the Jewish community, it hardly draws attention to itself. The only occasions when Buddhism gets some media coverage are the visits of the Dalai Lama and public expressions of criticism about Chinese-Tibet politics, as we saw recently before and during the 2008 Olympic Games.

All in all, Germany is facing a new, more diverse religious landscape caused by secularization, immigration and cultural globalization and must get used to this situation. Interestingly, most of the German population is ignorant or unaware of these fundamental changes which affect non-Christian immigrants and their children, while these 'guests' have already settled down in Germany, both physically and psychologically. So the (re-) construction of

the religious dimension of German identity is a real challenge for society.

Social structure

The social structure of the Federal Republic of Germany, seen through the eyes of religion, shows that religious minorities in Germany are facing numerous difficulties, not merely because of their differing faiths but because of their immigration history (*Migrationsgeschichte*). Jewish and Muslim communities happen to be the religious minorities that permanently attract attention on a level which permeates the whole society. Both also happen to have evolved mainly through immigration processes which have brought significant numbers of individuals to Germany. Both are struggling with economic issues such as unemployment. And both have to deal with racist hatred in the shape of antisemitism and islamophobia. None of these issues is linked to the religious belief of the individuals and communities concerned, but to their differing ethnicity. By contrast, for instance, the Buddhist community, half of which is German by origin, has no complaints of this sort.

Historical background

Key to understanding the religious dimension of German identity is understanding the historical background which confronts the German people. Germany is the country that caused two world wars, one of which aimed to erase the Jewish people and ended in the Holocaust, probably the most horrific crime ever committed by mankind. The entire identity of the Federal Republic of Germany is grounded in the shock of the Holocaust and the promise never to let anything like this happen again. Over sixty years after World War II, Germany is still keeping the memory of its cruelty alive. It is trying to take responsibility for the crimes of the past and will most likely continue to do so for at least another sixty years.

This historical consciousness made it possible for Germans to tolerate ethnic, cultural and religious diversity and kept German nationalism to a relatively low level. In fact the generation of 1968 was not even happy to be German at all. They were ashamed of their history and confronted their

The Netherlands: Religion

Famile Arslan

In the past few years, religion has been a hotly debated topic in the Netherlands and elsewhere, and this will remain so for some time to come. Obviously, the debate around religion and the manifestation of religious groups is not limited to the Dutch borders; it has become an international issue partly because of the attacks on 9/11, as well as the period leading up to the attacks, which has influenced the current climate. Everybody has a view on religion and many people ask whether there is still a place for religion in public life. At the same time, this negative attention stimulates quite a few people to delve deeper into religion.

There are two competing visions on the role of religion: there is one group that considers religion as a significant social and public factor, while there are others who are keen to keep religion as far away as possible from the social and public realm. Even though I think that there is some validity in both points of view, my own personal preference is for people to have the freedom to adopt or reject a religious belief. I am convinced, however, that the government should remain detached and should not be allowed/able to interfere with religion and religious issues. The Dutch government is not entirely straightforward in this respect.

The Netherlands upholds the principle of the separation of church and state. We can speak of a separation of church and state when the political and church powers are not in the same hands and when they do not have any significant influence upon each other. This means that the state and the church each look after their own affairs and do not interfere with the other or tell the other what to do. This division is thus first and foremost about keeping an organizational and governmental separation between these two powers. Public servants do not meddle in church affairs and church officials do not meddle in affairs of the state. The separation of church and state is therefore not about a separation of religion and politics, even though that is a common misconception.

However, this principle is not part of the Constitution of the Netherlands. Furthermore it is not sufficiently legally defined, which is why there is now a lot of discussion/noise regarding the meaning and repercussions of this principle. It is worth mentioning that the principle of separation between church and state has always been controversial, while the definition itself remains unclear.

This principle cannot be considered in isolation from three other fundamental principles. First of all, there is the principle of freedom of religion, which means among other things that every religion, every denomination is simply *allowed* to exist: the state should not hinder the establishment of a religion or religious community, nor should the state make it difficult or impossible for a religious community to exist. Secondly, there is the principle of equality of religions and churches: they ought to be treated equally by the state under equal conditions. These principles are good values but they can be at loggerheads with the last principle, namely that of the neutrality of the state.

In the last few years we have had much discussion in the Netherlands about rights and their embodiment. This is partly as a result of the imposed European identity, which is why the Netherlands felt the need to re-emphasize these Dutch characteristics. There is also another reason, which is not insignificant, and that is the fact that Dutch society was confronted with a new religious group, which it had created itself. A non-homogenous group of people with a similar cultural-religious background has been shaped into a new religious minority: the present-day Muslims.

Once the new religious minority manifested itself as a group and wanted to claim the rights and their embodiment of which the Netherlands had always been so proud, it turned out that they were not that natural after all. Or at least not for everybody. The special schools are an example of this. The new Dutch with an Islamic background decided at some point to set up primary schools with an Islamic outlook. Even though they had the right to do this according to the Dutch Constitution, this decision created a storm. There were discussions to scrap article 23, which forms the constitutional basis for this right. Even though this issue also affected

other religious groups, the focus was firmly on the Islamic schools. Just when Muslims, quite sensibly, started to make use of this law, many laws were questioned, while the separation of church and state was referred to all the time in order to curtail these liberties. The same liberties that the Netherlands had been so proud of were being questioned when Muslims made a claim on them.

At the moment there is a fierce discussion surrounding Islamic marriages. An Islamic marriage is a ceremony whereby two people vow to live together in the presence of a number of witnesses and a religious leader, but it has no legal implications. It is not recognized by any institution, but it is being questioned although it is a generally accepted form of cohabitation. Yet again the separation of church and state is referred to in order to present religion as problematic.

It must be pointed out that religion has always played a part in Dutch society. Dutch society has never been neutral in terms of religion. On the contrary, it is one of the defining characteristics of Dutch society. For instance, the Dutch anthem is full of Christian elements; there is a prayer on the coinage; the head of state is inaugurated in the Nieuwe Kerk in Amsterdam; gifts to the church or the mosque are not liable to income tax; religious groups are entitled to airtime on the public broadcasting system, which is subsidized by the government. The same is true for areas such as spiritual care in prisons and in the army. What stands out most among developments in recent years is the creation of an imam training course. This is not the result of a societal need but of a purely political decision. By setting up such a training module, the government hopes to be able to influence the Muslims and their emancipation process. Prior to an imam training course, there needs to be an umma, a faith community, which can define the role of the imam as well as the need in society. The government still needs to keep a reserved stance when it comes to interfering in religious communities.

It does seem in recent years as if there were only Muslims living in the Netherlands. Not a day passes without an article in the press about Muslims or Islam. Naturally, there is often a negative undertone. The idea that Islam is incompatible with democracy

is thus created, and the government, the media and the Islam-bashers search for confirmation. Cultural, not religious, expressions are also labelled as Islamic and are used against Muslims. Islamic fundamentalism is juxtaposed with secular/atheist fundamentalism. Both forms of fundamentalism are extremes that propagate fear and division.

Religion in the Netherlands has a past and a future. However, it is crucial for the cohesive fundamental principles to be implemented consistently. Europe has created a new religious minority. How it deals with its minorities is a challenge, while at the same time it is also an indication of its attitude towards human rights. The current climate does not reveal a great deal of respect for human rights, while it has always been a stick for the Netherlands and Europe to beat other countries with.

Famile Arslan is a lawyer with her own law firm in The Hague.

Poland: Religion

Zuzanna Radzik

When talking about *res publica* in Poland, it is impossible not to bring religion into the discussion. Since 94 per cent of Poles declare themselves to be believers, it is obviously an important factor in everyday and political life. At the same time religious discourse in Poland mainly relates to the dominant Catholic Church, which is still one of the major players. Statistically speaking, 39 per cent of Poles state that they believe in their own way (within the framework of Christianity or of non-Christian traditions) and 55 per cent claim that they adhere to the rules of the Catholic Church. There is therefore no other way, when talking about religion in public life in Poland and its contribution to *res publica*, than to talk about the Catholic Church in Poland.

Weaker but still a giant

The Polish Catholic Church, compared to other countries, still enjoys a very high percentage of participation, meaning that people attend Sunday services regularly (45.8 per cent of Catholics). Interestingly, we have not noted a major decline in participation over the last twenty years and the number of those who take Communion has even risen. This shows a surprising stability, whereas many expected to see increased secularization as a result of democratization and of Poland joining the EU. At the same time some statistics demonstrate other trends. In spring 2008 a Gallup poll was published about the level of trust shown by Poles in their religious leaders; at 8.8 per cent, this was one of the lowest in Europe, far behind Germany (30 per cent) and Ireland, where sex scandals have ruined that trust (42 per cent). This may reveal a popular mistrust of priests and a tendency to be slightly anti-clerical, but is a result of last year's situation, when bishops and priests were seen as anti-heroes. As for the level of belief, statistics may not be the best tool to research it, but they can give some insight. Another poll (I. Borowska & T. Doktor, Kraków 2002) shows that 80 per cent of Poles practise their religion regularly or irregularly, and have some association with the Catholic Church, but only 15 per cent try to deepen their religious life in everyday

situations, and only 30 per cent are knowledgeable about Catholic doctrine.

We can therefore say that there is a wide identification with Catholicism, although, on the doctrinal level, it is often very superficial and without any real understanding. Nevertheless, full Churches do not make the news, and there is no real evangelizing work aimed at adults. What is alarming is that we find that the most significant atheism is to be found in the 18-25 age group, who were, paradoxically, those who studied catechism at school. Moreover, middle school students are the group who are the least interested in doctrine and who do not accept the moral and sexual teachings of the Church. It is therefore easy to foresee a future decline in participation and commitment to the Catholic Church.

There is undoubtedly not enough internal dialogue within the Church in its decision-making process. The influence and involvement of lay people is limited. There are not many ways for lay people to exert any real influence on decisions that are taken. A symbol of this lack of cooperation is the Church of Providence, which is currently under construction in Warsaw. It is obvious that people do not want or need this big sanctuary, but a previous bishop decided to start its construction. People voted against this idea 'with their wallets' by not donating money. Unfortunately, the ground was already broken, which left no choice but to finish the building. This is an ironic symptom of the failure to listen to the needs of believers.

One may simply say that it is enough that the Polish Church still has jobs for its priests and that the hierarchy does not need to ask lay people for help in running this enterprise. But it is all a lot more complicated than that. Priests who wish to build parish life on the involvement of their parishioners complain that they are passive, that they expect to be looked after, have Sunday services and nothing more. Certainly many people do not wish to make any personal contribution to parish life.

At the same time we have a large number of Catholic organizations and movements, which bring together 2.5 million people mostly for prayer (i.e. 1,357,925 Rosary groups) and charity groups. This

shows that the activity of lay people is channeled in meaningful, but not powerfully connected spheres of life. However, one needs to be careful not to see these groups in a stereotypical way. Even retired ladies gathered in a pious circle devoted to Our Lady in a small town may hold almost heretical ideas, and have a rebellious approach towards the hierarchical Church.

In fact, most often Catholics feel that 'the Church' means something external, that it is run by its own secret rules, and by people they do not know. What infects our Church is too often the arrogance of its hierarchy and the ignorance and passivity of its lay people. The remedy might be for both parties to understand that they both represent 'the Church', and moreover, that they are 'the Church' together.

Black cloud?

Being weaker but still a giant, the Church is and will remain one of the main players on the Polish public scene. The World Values Survey placed Poland in the position of one of the countries in which religion has the highest presence in its public life (coming just after the US). This presence, or more precisely its form, is a matter of many disagreements within the Church itself and in society at large. Some of the problems with the presence of the Church in public discourse are reflections of its internal conflicts. There are many reasons to question the Church's presence and to criticize it, but I would hesitate to use the metaphor of the 'black cloud' which casts its shadow over the entire country, as used in the Polish round table session.

The Polish round table happened to take place in June 2007, during the lifetime of the previous parliament, when we were all struggling with the political situation in our country. There were no supporters of the ruling coalition in the room, but we still strongly disagreed about numerous things. As can be seen in Diana Pinto's report, the Church was one of the issues about which we argued heatedly.

It is not difficult for me to understand where the anger of our lay participants came from. I imagine that there was no Catholic in the room who would agree with the form of the presence the Church had chosen in this last parliamentary period. We were all

disgusted by the most ridiculous coalition that was being planned and negotiated on the advice of one of the bishops and his office. The Church's hierarchy did not hesitate to put pressure on members of parliament and many of them helped the Church, even without being asked. One such case involved giving a state subsidy to fund the construction of the Sanctuary of the Providence. Another example was the constant presence of government members and other politicians in the Radio Maryja audition, a radio station which causes many problems, which is still run by priests and which many bishops support. I am aware that such cases are only the tip of the iceberg. Personally, I feel embarrassed and regret that the representatives of the Church of which I am a member, involved itself in political games and did not hesitate to exploit the situation. And yet, I still disagree with the 'black cloud' metaphor.

Condemning the Church *en bloc* benefits no one; its presence is too important and it is such an integral part of the fabric of Polish life.

Much more is going on behind the scenes than is shown by the media. It may seem controversial to say this to those who disagree with the Church's worldview, but the Church organizes people's minds and provides stability to cope with a changing reality. People feel less lost in their surrounding world. Of course what people are taught is one thing but how they behave is quite another, but people need answers, especially those who are not highly educated, or able to search for them independently.

Being a member of a parish is, for many, almost the only experience they have of belonging to a group. The parish itself is an umbrella for numerous small groups. Not only those who pray or discuss the Bible, but also those who do charitable work, help disabled people, the elderly, the poor, or provide legal advice. They provide day care institutions for the disabled, shelters or kitchens for the homeless and jobs for the unemployed, all of which are organised, sponsored and run by parishes. In this way they support and enrich their local community. The Church and the religious orders run big charitable institutions, orphanages and homes for addicts; they work on the streets with children and prostitutes. One should add to that the activities and organizations of lay people who do what they do

because of their religious association.

The CBOS report gives an interesting insight into the beliefs and religious practices of Polish citizens. Published in 2000, it is a wide-ranging survey carried out between 1986 and 1999, which shows a visible connection between the level of religious practice and engagement in communal life. This engagement includes voting in elections (both national and local) and involvement in non-governmental organizations. The authors conclude that since the establishment of the Third Republic of Poland (in 1989), the religious attitudes of Poles noticeably encourage civic attitudes and active participation in the democratic changes which are happening in the country.

In short, all this contributes to the network of help, support, social life and activities and also to the formation of good citizens on the local and national level. Far from being a dark cloud casting its shadow over the entire country, the Church may initiate and inspire activities because it is spread over the entire country. With all its limitations, it is the biggest and most powerful non-governmental organization in Poland.

Church and the *res publica*

The Catholic Church has a long tradition of being the main power in national life. This started with Partitions in the 18th century and continued during all the country's misfortunes during the 19th and 20th centuries. The situation during the Communist era again regularized the position of the Catholic Church since it provided a space of freedom and supported the opposition movement. Unfortunately for itself, the Church failed the test at the beginning of the democratic era. Religious leaders constantly wanted to influence political life. There were some famous cases where parish priests and bishops even suggested for whom people should vote. Nevertheless, at the beginning of the new system opinions about the involvement of the Church in politics were sympathetic towards the Church, but by 2007, fifty percent of Poles wanted Church leaders to wield less influence in politics. It looks as if the Church lost the trust of the public through its political involvement.

At the same time, it is hard to imagine the absence

of the Church from significant debates. I believe that it is not its presence so much as its form that has been controversial. Moreover, for my part, as a practising Catholic and theologian, the way the Church often took part in a debate was unacceptable. A letter from the episcopate to members of parliament about *in vitro* fertilization is symptomatic of this. In this letter bishops did not gently request attention, but demanded obedience and used very harsh language.

In vitro fertilization touches the same delicate problem of sanctity of life as abortion and therefore the Church cannot withdraw from the debate about it. In my opinion it has every right to publicly express its opinion about this problem and even to write to parliament, but certainly not to use such a tone.

In conclusion, I agree with the essence of the Church's message on both abortion and *in vitro* fertilization, but I disagree with the language and methods used. I believe that they are counter-productive and do not convince anyone.

Basically, the Church should understand that they are only one of the players in public discourse. They might be listened to but will not necessarily be obeyed. Someone also suggested after the first *in vitro* discussion, that the Church should let the experts – the doctors, specialists and lay people – speak on its behalf, because they are regarded as more competent in that field than any bishops. Generally, the way debates are conducted in the Polish public scene resembles the polarized discussion of our seminar. We were supposed to be able to talk, but I must admit that the 'dark cloud' made me think that we were not really able to do so. This is symptomatic, because if lay intellectuals and more moderate Catholics are not able to talk peacefully with each other than one loses hope that a broader discussion between more radical parties could be possible.

I believe that both sides are guilty of not listening to the other.

Hopefully, the world is not divided between anti-clerical liberals and dumb, fundamentalist Catholics (or generally religious people). Between those extremes there is a moderate majority who may and

do talk with each other, when it is not paralyzed by generalizations and polarizations. Again, from what I have seen, both sides, religious and non-religious, are guilty of polarizing debate. This definitely does not serve the cause of public debate, nor can it help build the common good. As a first step toward real debate, we should try to get to know each other, but the real 'other', not the imaginary 'other'. More care in listening and defining our opponents is necessary.

Instead of a conclusion, I want to answer the question about my own personal policy in respect to this diagnosis. As shown above, I often disagree with the ways the Church manifests itself in public life. At the same time I consider myself to be an 'open orthodox' Catholic – someone who may discuss with people from outside and inside the Church, but who stays within the framework of orthodoxy in its essential teachings. I believe that I have the right to question some of the teachings and forms of the Church's life, or at least to ask for more coherent explanations. At the same time, I believe in my right to express my voice as a citizen in public life, even if that voice is inspired by Catholic teaching. I therefore have both rights and responsibilities as a Polish citizen and a Roman Catholic.

When someone sees the Church as 'a black cloud' I react in two ways: I think it is an unfair judgement, but also that I have not done enough to show the other face of the Church. Therefore my personal strategy would be to help build a platform that can bring Catholics together and enable them to discuss difficult issues of faith, ethics, law and social life and prepare to take part in public discourse. It is not so much about generating that voice but about making it stronger. Many Catholics disagree with the negative aspects of the presence of the Church in public discourse, but their voice is dispersed. In short: be louder, more visible, show the new quality of the presence of the Church in public life. If we cannot count on the Church hierarchy to provide a moderate Catholic voice in public discourse, we need to speak up for ourselves.

Zuzanna Radzik is a theologian involved in Polish-Jewish and Christian Jewish dialogue in Poland, and a member of the Centre of Culture and Dialogue in Krakow.

Sweden: Religion

A non-religious country with untouchable religions

Maria Södling

Sweden is often referred to as the world's most secular country. Some would argue that this is a misleading description. Surveys on people's philosophy of life show that the majority claims to believe in 'something'. Indeed most Swedes still belong to the former State Church (the Church of Sweden is also reckoned to be the world's largest Lutheran community) and the culture sections of newspapers regularly deal with spiritual matters.

However, in terms of secularization the harsh statistics provide as clear a picture as that provided by religious sociologists. Fewer and fewer Swedes define themselves as practising Christians. Once other experts have had their say, there seems little space for the church's crisis managers to talk about the spiritual needs brought to the surface by national disasters, such as tsunamis. The Confirmation ceremony, which for previous generations marked the transition to adulthood, now attracts ever fewer young aspirants. The overall picture is one of institutionalized religion becoming marginalized: in terms of personal beliefs, a religious presence in public life and collective rites in day-to-day living. Yet the country's bishops are experiencing a growing interest in spiritual matters, and attention to that interest is gradually becoming a part of their job description; in the same way university theologians are finding themselves increasingly invited to take part in debates on morality in society and on the meaning of life.

Religion – which, in the Swedish context, continues for the most part to mean Christianity, in the Church of Sweden mould – as a common, unifying force and as the structure for society, has become significantly weakened. Is this a good or a bad thing? Good in the sense that the narrow space that the Lutheran view of society allowed the individual has been replaced by the freedom to shape one's own life that modernity affords. Good in the sense that ecclesiastics are no longer allowed to define the proper place of women in society in general,

or sexuality in particular. Good in the sense that monopolistic religious demands no longer prevent people from seeking their own way in life. Above all, secularization is a good thing in the sense that no religious affiliation or adherence to a non-Christian faith is any longer defined as 'other'. In addition, when the Church of Sweden was disestablished from the state, the concept of the respect of the government for its citizens' freedom of choice and equality was strengthened: no one religion or way of life now takes precedence over, or is *a priori* more the norm than any other.

On the other hand secularization can be a bad thing. Throughout its history, Christianity has provided rites and a vocabulary to express faith, gratitude, anxiety, guilt and a sense of meaninglessness. For repetitive, everyday life and for tragic events it has provided a religious repertoire, a language that not only expresses people's own experiences, but also carries forward centuries of experience. The theology that has been formulated in Bible exposition, sermons and hymns has given an understanding of the condition of other human beings and an insight into how previous generations conducted their lives. If one sees religion as a language, this means that, as a result of secularization, people today are at risk of becoming illiterate in both religious and existential terms. In saying this I do not mean to imply that the non-religious view is superficial or bankrupt, but rather that the experience of life as expressed by religion is becoming a world to which fewer and fewer people have access. And the range marketed under the brand name of 'spirituality' – covering everything from healing to colonic irrigation – is often seen as a poor alternative.

If we see this existential trivialization as a lack in the individual's life, we also see that our modern ignorance of religion has implications for society. It appears to be a contradiction, but the fact is that with secularization, religion has gained space it never occupied before. The background to this, I would say, is that when religion is marginalized it also acquires a distinct space in society – a minimal one, of course, but one of its own. It has therefore been freed from the demands of ordinary life in terms of reason and comprehensibility. Religion has become something special, a 'language game' with its own system of logic that cannot be synchronized

with other languages, let alone communicated. Secondly, this religious sphere has acquired an aura that can only be defined as sacred. Time and again we see normal, secularized Swedes who, though they may feel alienated from, or who even dislike religion, nevertheless express respect and even reverence for the religious. The response from the religious sphere is to demand respect for its unique identity and above all a desire to prevent its faith being 'violated'.

Paradoxically, therefore, we see how an increasingly non-religious society has acquired religions that are untouchable, beyond communication, beyond criticism. The current age-old debate on women priests shows how unprecedented gender discrimination is treated seriously – even with great respect – just because it is formulated in religious terms. Political deference acceding to demands for religious schools is another example of how otherwise undisputed values – children are entitled to an all-round education – are anxiously giving way to claims made in the name of religion.

Religion's contribution to the *res publica*

This is undeniably a bleak picture: not only existential impoverishment, but a society in which a combination of alienation, ignorance and unquestioning respect allows space for the destructive side of religion. In light of this destructiveness, is there any reason to want religion back again? I think there is. Firstly, for the simple reason that people are religious. Secondly, religion could be a constructive force in people's lives and in society in our own time. But at the same time as recognising that people are and want to be religious, with good reason, it must also be kept in check.

The basis for such a dialectic approach (seeing religion as both a good and a bad thing) is the concept of religion as a human creation. Theology and church history show that religion is not given directly by God, but is always shaped by, and mediated by, people. This means that a religion is not a uniform entity, but rather a cluster of spiritual and intellectual traditions. In addition no religion is a ready-made intellectual and moral package that one can either unpack and accept, or choose to reject. On the contrary, all religious people are

constantly faced with the choice of religious traditions and individual interpretations: how do I read the sacred texts? How do I read the historical dogmas, how do I justify my ethical stance? Here all believers have an intellectual and a moral responsibility. How to choose is not obvious, but there needs to be a minimal theological criterion, by which I mean that religion must respect and promote equality and the unique value of the individual. In light of such a criterion certain religious views are morally impossible (for example, to defend apartheid with the argument that God has created different peoples), while other interpretations will be consistent with the way people want to shape their lives, in a decent manner.

The question is where and by whom this constructive type of religion is formulated? The task of creating a creative theology rests first and foremost with the religious communities. Here it may be noted that in church history the 21st century is often described as being unique. Never before has the church faced such challenges, we hear, as it does in this millennium of pluralism. But it is a description ignorant of history, which overlooks the fact that as late as the early 20th century the Church of Sweden was in a similar situation. Under the old peasant society system, workers and the intellectual bourgeoisie became increasingly alienated from the Church of Sweden, which was associated with authority, lack of freedom and oppression.

The Church's theological response, in the nationalist language of the time ('the Swedish people a people of God') confined all the people in an all-inclusive Christian community. The basis for this inclusive theology was a Lutheran anthropology which claimed that everyone, regardless of personal piety or moral character, is a sinner and in equal need of God's grace. The only problem was that this concept of equality, or similarity, was targeted at people who were indifferent, reluctant or directly hostile to being included in a religious community under its well-paid clergy. Even today, a hundred years on, pluralism in society is a fact, as is people's alienation from the religious world. And even today it seems natural to regard the concept of human equality and a common existential situation as tools for managing this diversity. But there is one crucial difference between then and now. What the philosophy of the

last few decades and social debate have clearly shown is the significant effect of failing to recognize one's neighbour as different – or as different as he or she wants to be recognized. In the early 21st century the church cannot meet the needs of pluralism in society by preaching equality and similarity, while ignoring difference. In a pluralist society the church must recognize the particular while affirming the universal – at one and the same time.

The contribution of religious communities to the *res publica* will therefore be to formulate a theology which argues for human equality, without losing sight of difference. With their academic and practical knowledge of religion as a social phenomenon, church theologians are also in a position to identify and analyse destructive theology and destructive forms of religion. But ultimately, responsibility for the type of religious critique that every society needs rests with society itself. Just as the collective trains first-class medical students, political scientists and technologists, society has an obligation to train skilled religious experts. Some of them will work in churches and communities, where they can make use of their academic knowledge in theological reflection and practice. But most will operate in a non-ecclesiastical context – as teachers, politicians, officials, journalists – where their religious skills will be necessary for identifying and confronting destructive religious messages.

Religion is not a good thing in itself, but good religion can have a positive effect. In this sense theology and religious practices that affirm people's similarities and differences contribute to the *res publica*. To formulate such a theology is the responsibility of society. Being on our guard against destructive religion is a common task.

Maria Södling is a theologian.

The United Kingdom: Religion

Jonathan Magonet

When discussing the state of religion in the UK today certain general propositions seem to be commonplace. The first is the decline in the importance and authority of the Church of England. Church attendances have been down for decades and, like other faith communities, the church is affected by the general decline in commitment to organized religion as a natural component of family life. In part this can be traced to the changes in British society since the sixties, with greater independence of young people, smaller families, breakdown in traditional family structures and the creation of newer ones which do not fit so obviously or comfortably into traditional religious frameworks. Where there is growth in the church it is to be found in more radical and conservative areas, reflecting the kind of polarization that is also widespread. In the case of the church it is in the growth of the evangelical movements, where a stronger commitment to faith in a somewhat simplified set of beliefs and expectations, and to a selective set of 'traditional teachings', seems to provide the certainties and security that some find very attractive. For such movements *the middle ground, with its classical laissez-faire approach to individual commitment and practice, and openness to a variety of changes, is seen as compromised*. So alongside the loss of authority of the church establishment, there is not just indifference but also a pronounced move towards polarization in terms of values and related political stances. There seems to be little sympathy for the problems of the Archbishop of Canterbury in trying to hold together the disparate churches that make up the worldwide Anglican Communion. Issues like the ordination of women still continue to raise problems, despite the equality of gender roles that is assumed, if not always adhered to, in the wider society. Even more dramatic is the question of homosexuality, where liberal human values come into direct conflict with perceived divine commandments and supposedly 'natural' feelings. Concerns about the ordination and promotion of known homosexuals, and about same sex commitment ceremonies, are challenges

that liberal theologians feel committed to address, while their conservative opponents see these as reasons for leaving the Church of England, either for Roman Catholicism or for newer independent movements.

If there are attacks on the church from within, there has also been a recent trend in attacks from without, with the appearance of two best-selling books: Richard Dawkins' 'The God Delusion' (2006) and Christopher Hitchens' 'God is Not Great' (2007), which are seen as articulating the disquiet of ordinary people at crimes and violence committed in the name of religion. Curiously, many of the challenges they pose are precisely those that are addressed by liberal elements within organized religion, who once again find themselves under attack from within and without, and by virtue of their intellectual and spiritual breadth of perspective, unable to respond with the same simplistic clarity and force of their opponents. Rabbi Lionel Blue once pointed out that he had never met anyone crazed with liberalism!

If the church is seen as being in decline, there is conversely a growth in the number of adherents to Islam, and this calls for a different kind of attention in the wider society. The principal emotion is one of anxiety, clearly caused by the new reality of terrorist threats following 9/11 and 7/7, but also by the popular media's reporting, and sometimes exploiting, of the fears that have arisen. But it is possible that in addition to the physical threat that people fear there is another unexpressed dimension beneath the surface, which can only be described as a kind of spiritual envy. How can these people be such committed believers in our secular age? How can they hold so fast to their tradition to the point of giving their lives? How can they recruit new members when we cannot? Are we missing something? Or are they so very different from us that we should really see them as a threatening alien force? But if there is something missing in our lives, is it the Church that can provide it? Surely that means surrendering our hard-earned independence and freedom to do whatever we like, and accepting a whole series of moral, intellectual and practical constraints? These various emotions came together following a seemingly innocuous statement by the Archbishop of Canterbury about

the possibility of incorporating aspects of Shariya family law in the UK to meet the domestic needs of Muslims. Though such has been the case for the Jewish community for a long time, this parallel, equally limited, suggestion invoked a media frenzy, feeding those whose paranoia has already seen a threat in every Muslim. Though the issue is of religious significance it cannot be separated from issues of racism and Islamophobia that are part of British culture. (I do not know whether similar arrangements are also made for the legal recognition of aspects of Hindu religion, but it is interesting that this does not seem to be a subject that is raised. Moreover, that no fears were expressed about the fact that Jewish law is similarly recognized suggests that Jews have become assimilated into some kind of acceptably British identity that is not seen as a threat.)

Having mentioned Judaism, one can see parallels in the problems confronting the Church of England. The orthodox 'United Synagogue', headed by the Chief Rabbi, has effectively been the 'established church' for the Jewish community, and all other movements, Liberal and Progressive, Reform, Conservative have been marginalized. However their relative growth in the post-war period, now collectively about one-third of affiliated Jews, makes them increasingly part of a new emerging 'establishment'. One cause for the growth must be in the provision of rabbinic training through the creation of Leo Baeck College. In contrast, the United Synagogue's venerable 'Jews' College' has effectively closed and rabbinic leadership has had to be imported from Israel, or through the willingness of Lubavitch Chasidim to infiltrate the community, with some success but also with the disenfranchising of classical 'middle of the road' Orthodox members. Parallel to the Christian 'right', it is the ultra-orthodox community that is growing in a period of continuing numerical decline of the community as a whole, largely due to their high birth-rate. It remains to be seen whether their demographic success will fulfil expectations of a move to the religious 'right' of the community as a whole in the coming decades.

It has been necessary to discuss the 'organized' religious communities, but this does not fully address

the complexity of religious and spiritual issues that are also to be encountered in Britain today. The quest for 'spirituality' outside the traditional frameworks is another feature of contemporary British life. One can point to the growth of 'alternative' spiritual movements from New Age to various 'cults'. Yet at its most simplistic level, it might be suggested that the need for ritual in life and communal shared experiences that were once the particular role of the church have been replaced by the secular options of the pub, health clubs and the club scene for a younger generation, and by football across the generations. The need for spiritual models formerly provided by Biblical figures and spiritual icons is now expressed by a culture of personalities and pop idols, with the tabloids writing the scripture of their lives and loves. This new reality found its greatest expression in the extraordinary catharsis acted out by virtually the entire population (with the notable exception of the Queen, the 'Defender of the Faith') following the death of Princess Diana. Here, otherwise unfulfilled spiritual yearnings seem to have been expressed, but perhaps also a deep-seated sense of guilt at the superficiality and emptiness of such a culture of personality, since she was literally hounded to death by the very journalists who fed and fed off the myth.

While the above may appear to be dismissive, it is only because of the degree to which media coverage determines the extent to which any religious phenomenon is taken seriously. However, what goes unnoticed and unheralded is precisely the regular rhythm of religious life conducted in local churches, synagogues, mosques and temples throughout the country. Such grass-roots communities, representing the many different ethnic groups that make up contemporary multicultural and multi-faith Britain, are essential building blocks of civil society. At their best they exemplify the values of mutual support, welfare for the weak or elderly, education for young and old alike, charity for those in need, occasional political interventions, democratic systems of governance and outreach across their particular faith framework to others. The dramas of individual life transitions are reflected, joys shared and sorrows comforted and festival cycles link communities with one another and to their respective historical roots. It may well be that with the current economic downturn, anxieties will send people back to those

France: The state and civil society

Civil society and state in contemporary France: the trap of counter-democracy

Wojtek Kalinowski

One falls easily into clichés and simplifications when talking about state and civil society in France. Arguably, the country possesses a strong tradition of *etatisme*, and references to the ‘Jacobean heritage’ and state centralism still flourish in the political debate, almost thirty years after the first decentralization laws. The reasons for this are deeply embedded in French political thought, and French politicians and senior civil servants have often been portrayed as the archetype of an elite distrusting all sorts of *corps intermediares* that might interpose themselves between the individual citizen and the ‘general will’ (as expressed, not surprisingly, by the state). The French historian Pierre Rosanvallon calls it a ‘polarized’ vision of democracy, a vision that imposed itself in the aftermath of the French Revolution and where the nation state and its central institutions are thought to completely express the sovereignty of the people. Even today, we have no difficulty in seeing its imprints on French society. The most obvious example is the relationship between the state and religious communities, shaped as it is by the struggle with the Catholic Church and the difficult recognition of religious identities in the public sphere. But there are many others, for instance, the historical weakness of French trade unionism and the central role played by state legislation in a field where other countries, like Germany, Denmark or Sweden, rely extensively on labour market partners to regulate their own affairs.

Nevertheless, French society has always been much more complex than this intellectual reading of the ‘republican tradition’ might suggest. As some historians have shown, notwithstanding the ‘Jacobean’ state, local movements and non-government organizations have been active throughout 19th century France, and gained increasingly in importance and recognition at the end of that century. Today, French civil society is a surprisingly vital one: for instance the non-profit sector represents over 1.1 million organizations,

employing over 1.6 million people and putting into work an additional 15 million volunteers. This sector grows faster (2.5 per cent a year on average) than the French economy as a whole; far from struggling against it, the state encourages this trend through tax deductions on charity donations (in 2005 for instance, some 6 million households donated over 2.5 billions euros). At a different level, if we take a broader look and consider the place given to civil society within the ‘machinery’ that regulates public life, we discover that a lot of responsibilities have been delegated: a whole range of public agencies are co-managed by trade unions and employers’ organizations. Even in the most controversial area of civil society, the religious one, we can see a difference between national policies and local practice. On the local level, sociologists such as Riva Kastoryano, have observed since the 1990s a sort of implicit politics of recognition, especially addressing the minority communities; while direct public subsidies to religious communities remain illegal in France (as famously stated in article 2 of the 1905 law still in place, the ‘Republic does not recognize, does not pay for, and does not subsidize any worship’), mayors and county officials bypass this rule by distinguishing cultural activities from religious activities.

Does this mean that the French ‘political tradition’ is just something French intellectuals talk about, an ideological discourse disconnected from everyday practice, that turns out to be much more pragmatic? Whatever the case, it affects the practice in a more discrete way. What characterizes the French case is not the absence of civil society or the apathy of citizens towards an omnipresent state, but the fact that the relationship between them and the state does not ‘work out’ – since it is built on distrust and competition, rather than trust and complementarity. When we examine more closely what actually happens when the political field interacts with civil society, we discover habits and mechanisms that produce setbacks in spite of all the good intentions. These mechanisms are numerous; I will limit myself here to point out three of the most obvious ones:

Political instrumentalization

Arguably, there is nothing particularly French about it: in all democracies, politicians try to exploit the

popularity of community leaders and NGO executives, offering them a place within the administration as soon as they become known to the wider public. In the French case, this 'tradition' goes back at least to the 1980s, when the Socialist party created strong 'organic' ties with new social movements such as SOS Racisme, movements that had emerged spontaneously but were transformed into the party's semi-official 'grassroots spokesmen', losing a lot of their initial strength and dynamics. More recently, the French political right used the same strategy when it invited to the cabinet public figures such as Fadelah Amdara, the founder and director of Ni Putes ni Soumises network, and Martin Hirsch, the former president of Emmaus France, one of the best-known French NGOs fighting against poverty. This 'cherry-picking' among media-friendly NGO executives, effective as it is in terms of political communication, is not likely to improve the overall relations between the political elite and civil society leaders.

Lack of consistency and mixed signals

The most recent case comes from the labour market. For years, there has been a growing political consensus in France that trade unions and employers' organisations need to take more responsibility for regulating labour market relations and what happens in the workplace. Thus, in 2004, the right-wing government passed a law obliging the legislator to let the social dialogue have its say before passing any new law concerning labour law or the way the labour market is organized. This spurred both trade unionists and employers to new negotiation rounds that eventually gave birth to new collective agreements, something actually quite rare in French labour market history. However, less than four years later, the same political majority broke the rule in passing a law quite different from the agreement reached some months earlier by the labour market partners. This move surprised even Laurence Parisot, the leader of the French employers' organization MEDEF, who, though surely delighted about the content of the new law (which goes further in liberalizing official working hours), urged the government to respect the agreement. This is just one example among many of how the state breaks its own commitments and distils distrust.

Mistrust in the civil society's capability to regulate itself

Notwithstanding the 'cherry-picking', most French political representatives and civil servants seem to have only a vague idea of how civil society actually works. The non-profit sector is a case in point: its actors have a long tradition of peer evaluation and self-regulation (signing charts obliging them to follow rules of quality and of transparency, etc.). And yet, in 2007 the government suddenly announced its plan to create a brand new 'NGO label' in order to – as a member of the Cabinet, Roselyne Bachelot, put it – assure transparency and good governance. As explained by Julien Adda of CPCA (Conference Permanente des Coordinations Associatives, one of the major NGO federations in France), when the news was announced at a meeting of the National Council of Non-profit Organizations (a consultative body attached to the Prime Minister's office), all NGO representatives present were taken by surprise, while others concerned (mostly public servants) seemed to have been informed in advance. What is more, the government seemed not to notice that the sector already had several NGO labels in use, and that those labels, free of charge, were adapted to activities of specific sectors (health, poverty, sports and so on), while the new one is not only extremely expensive but also designed to cover the sector as whole. This cast severe doubts about what it will actually measure in the end. If it is adopted, the new label would come with an audit that is so expensive that only the biggest non-profit organizations could afford to buy it. But what is important in our context is the process itself: instead of making a thorough overview and discussing the matter with those concerned, the government simply commissioned a 'one size fits all' solution from a private firm, without any consultation whatsoever.

These three points are far from being the only ones, but the conclusion seems clear enough already: the problem lies not in the 'big picture' but in the details. As it is, all the required forums for dialogue and deliberation already exist, and the importance of civil society participation in public affairs is underlined time after time by leading politicians – and yet the 'nuts and bolts' of the relationship between state and civil society do not work as they

should. As a result of this systemic failure, French civil society often seems at its best when mobilized *against* the political system, rather than involved in a constructive dialogue – on the streets rather than at the negotiation table. It becomes, so to speak, the mirror of the political claim to express wholly and exclusively the nature of democracy. The current French debate about ‘participatory democracy’ is marked by this fundamental fault line: one ideal of democracy seems to compete with another, rather than trying to improve it. This is what the historian Pierre Rosanvallon calls a ‘counter-democracy’, a democracy where civil society leaders, precisely because they feel neglected by politicians and state officials (even by those who claim to cherish above all the virtues of a strong civil society), spend much of their energy on forming blocking majorities in order to stop particular government measures, rather than on seeking to promote constructive solutions.

Wojtek Kalinowski is the editor of the French review La Vie des Idées. He also works as a journalist at the magazine Alternatives Economiques.

Germany: The state and civil society

Martin Schaad

In the broadest sense, civil society refers to a social sphere, in which social, political, cultural and welfare-oriented activities are organized not by the state, nor by the profit-seeking market sector, but by voluntary associations of citizens. In the Federal Republic of Germany, this sector of society is very broad and immensely active, ranging from the local sports club to broadly based political parties, from philanthropic initiatives to large membership organizations such as the trade unions. All these organizations, networks and institutions are not subordinate to the state, but their contribution is considered a vital precondition for the workings of democracy as such. Not least due to the historical experience of *Gleichschaltung* (forcing into line) under the Nazi regime, associational life is therefore explicitly protected by the constitution, and its conduct is regulated by a number of sector specific legal codes such as the *Vereinsrecht* (codes applying to voluntary associations) or the *Stiftungsrecht* (codes applying to foundations).

Yet, whenever there is talk about civil society, or *Zivilgesellschaft* today, one can almost be certain that this very broad definition only comes into play whenever the debate concerns a foreign country, in which the preconditions for a vibrant associational life are lacking. Indeed, in these cases, Germans consider themselves experts, ready to give advice on how to strengthen civil society. It is not only that the German NGOs concerned with foreign aid offer corresponding programmes around the world. Even the military engagement in Afghanistan is often portrayed essentially as an effort to enable civil society to take hold there. For those who do not, as yet, consider themselves experts, the left-leaning daily national newspaper *TAZ* even offers *Reisen in die Zivilgesellschaft*, educational tours to visit civil society (or the lack thereof) in Mexico, the Ukraine, or Ramallah.

At home, however, the scope of the debate tends to be much narrower. Here, it seems that civil society is almost exclusively seen as part of the debate about

welfare state reform, about the balance of responsibility between the individual and society and thus, ultimately, about the future role of the state. Rather than being a precondition for democratic governance, civil society is increasingly seen as 'filling the gap' wherever the state is on the retreat. Yet, as the erstwhile assumption that the state is responsible for most, if not all aspects of social life is waning, the new ideal that civil society is there to 'fill the gaps' faces serious funding difficulties. In Germany, the private and corporate willingness to financially support civil society initiatives appears to be less pronounced than in other countries. Some experts view the existing tax provisions and other legislation concerning foundations and sponsorship as obstacles in this regard. In any case, it is once again the state that is (co-)financing many activities of civil society. This may not be problematic in principle, were it not for the state imposing its own budgetary rules (in particular, annuality), which makes it difficult, if not outright impossible, for many an institution of civil society to develop sustainable, long-term programmes. In the longer term, state funding for civil society projects may have two further unintended and indeed, negative consequences: firstly, the repeated approval procedures may lead to a marginalization of dissent, thereby undermining civil society in its role in the system of checks and balances. Secondly, the near incalculable redistributive effects may undermine democratic politics by favouritism.

These points have all been raised in the current debate about the respective roles of civil society and the state. While the financial arrangement of welfare provision is, undoubtedly, an important question, the exclusive focus on it tends to disregard two other essential functions of civil society: furthering social integration and cohesion on the one hand, and providing a platform for debate and for the formulation of political objectives (commonly referred to as *Willensbildung* in the German context) on the other.

In these two respects, civil society performs rather well, though it appears to be facing mounting challenges. The willingness – not infrequently even enthusiasm – for self-organization is pronounced among citizens in Germany. In rural areas, for instance, social life would be unimaginable without

the work of institutions such as the voluntary fire brigade, the *Landfrauenverband* (association of female farmers) or the churches, to name but a few. Even in the cities, where the trend towards ever greater individualization is said to be most pronounced, it is the sports club, the local tenants organization, the youth centre or the *Arbeiterwohlfahrt* (workers' social clubs) that provide the much needed societal 'glue'. Yet, all these initiatives, projects and institutions face two challenges: firstly, the widening gap between rich and poor will deepen the fragmentation of society along socio-economic lines, making it difficult for civil society to promote cohesion and integration across the societal spectrum, leaving each institution to cater for one sub-group only. A related second challenge lies in the very real danger of isolation for the poorest and least educated, who do not or cannot take part.

With regard to the role that civil society institutions play in the formulation and debate of political objectives, the picture is once again a mixed one. On a positive note, it is noticeable that the long tradition of extra-parliamentary political activity, which perhaps began with the student revolt of 1968, developed into the broad-based citizens' initiative movement (*Bürgerinitiativen*) of the 1970s and culminated in the parliamentary success of the Green Party, is still very much alive. Yet, it seems that active citizenship in the strictly political sense increasingly focuses on short-term, single-issue campaigning rather than on the deliberation of the public good at large. Perhaps this should not come as a surprise, given that this concentration is not only 'closest to home' but also often the most promising route to change: it is far simpler to mobilize local residents for or against the extension of an airport, or for or against the teaching of Islam in state schools, than it is to promote more abstract values such as tolerance and respect.

What appears to be needed to improve civil society as a public space for the deliberation of the common good is what one may call 'bridging activities', fostering the debate between the particular interests voiced by existing initiatives. However, in doing so, great care needs to be taken so as not to exclude dissenting voices, non-mainstream voices and, above all, the voiceless sectors of society. Nowhere was the

need for (and the associated difficulties of) bridging activities more obvious than in the so-called 'Integration Summits' convened by the Federal Government to bring together representatives from politics, the media, migrants' associations, trade unions, employer associations and sports organizations to debate problems relating to the integration of immigrants into German society. Even before the deliberations began, the initiative was criticised as *Symbolpolitik* and some organizations decided to boycott the event. Thus, where identities are at stake – but perhaps also in all other contexts – those bridging activities should probably not be left to the state, but should themselves be part of citizens' self-organization.

On the other hand, it may not be advisable to either wait for disinterested mediators to emerge spontaneously on the scene (i.e. a charitable trust), or to set up yet another organization with the specific task of bridge-building. Though the state does not appear to be the right organiser, it may nevertheless jump-start bridging activities in more subtle ways. The present disadvantage of civil society's heavy reliance on (co-)funding by the state may be turned into a temporary advantage in this respect. Perhaps one could make a portion of that funding conditional upon the recipients' efforts to counter the fragmentation of civil society. The relevant sector-specific legal codes may also offer an opportunity to induce existing civil society initiatives to take bridge-building on board (though this is something for the legal experts to determine and cannot be done in this paper.)

Dr Martin Schaad MBA is the Assistant Director of the Einstein Forum, Potsdam.

The Netherlands: The state and civil society

Farid Tabarki

People play all manner of roles in various groups. The more abstract the group, the easier it is for institutions such as the state and schools to make mistakes appealing to the group's members. This makes it all the more of a challenge to frame interests in such a way that someone says: 'Yes, I think that's important, this concerns me'. You don't need to engage in soap-box politics to achieve this (although that does work, as we have seen in the Netherlands on a number of occasions) but you shouldn't forget that in our chaotic and multifaceted society, people are first and foremost individuals. Their membership of larger units depends on mutual commitment. This commitment cannot be conjured into existence by a government, political party or other sublimated form of collective action. Those in power are faced with a challenge, but need not be afraid: people are prepared to contribute to society through their own efforts and they display a new idealism. But these people tend to be the younger generation, for now at least.

The parents of the babyboomers built a wealthy society on the ruins of the Second World War. Their moral convictions disciplined society for decades. Some did so on the basis of a sober socialism, others on the basis of religion. This was translated into the social order of the day: work until you drop and be happy with the results, bear someone else's heavy responsibilities without complaint and look to the heavens for guidance on the difference between good and evil. Unequivocal and successful, but their children, the babyboomers, had no interest in spending their lives under this strict regime. They replaced the functional, but asexual marriage of 'De Avonden' by Gerard Reve (a Dutch author) with free love. On the economic level they built the welfare state, whilst breaking down all manner of moral barriers. The top-down leadership now no longer focused on morality, but on the economy. Strongly politicized and divided into ideological factions (in particular the various left-wing flavours, from communism to social democracy) belief in God

slipped away, to be replaced by confidence in the state.

The problem is, however, that the state no longer guarantees our daily bread, let alone something to spread on it. The welfare state is dead. People realize that. Neither God nor the state provides a future for you, either economically, or morally, but there are plenty of chances and opportunities. There is just so much to choose from! Unaffected by unfeasible idealism and cynical hedonism, these teen-and twenty-somethings are, thankfully, sufficiently flexible. The old collectivism just doesn't work any more. This generation's sense of us starts with me. Because healthy self-awareness and development offer more options for opening your heart to another.

A new generation should be able to distinguish between morals and standards of decency, but should combine morals with sharing things fairly. The old term 'solidarity' hardly suffices any more because it primarily seems to mean that you have to get some from me because you cannot get it yourself. This entails negative empowerment for the recipient. How can you feel that you are taken seriously if you are cared for from the cradle to the grave? The new generation's motto is: don't tell the social story from the government's point of view or that of a fairy tale, but from the individual's perspective. The constitutional state is more important than democracy. Defend business-like thinking to public institutions. The artist is more important than his/her audience. Think secularly, however pious you might be. Only then can you provide a healthy breeding ground for a community that means something, for honest redistribution that provides a safety net to those that need it, for truth and beauty and for a country in which religion contributes to unity instead of undermining it. Multicultural societies explode due to imagined unity. Do not pressure people into becoming part of a community, but stimulate their self-respect. That is the only way empathy towards the 'other' or towards society as a whole can grow.

This idea shows a slight similarity to the republican citizenship which sociologist Herman van Gunsteren posited in 1998. He had already realized that – in a multicultural society – unity cannot be imposed from

above. However, his theory is firmly based on the political institutions in which young people no longer really believe. Actual change starts in people's minds, not in a constitution, or with government institutions which take a hard line on the enforcement of freedom of speech.

Interestingly enough Dutch political parties are trying to do the exact opposite. As a matter of fact, the Dutch elections of 2003 and 2006 had one recurring theme: the standards and values that had been put high on the agenda by Balkenende, the current prime minister. 'Balkenende deserves praise for putting the topic on the agenda', the newly elected leader of the Partij van de Arbeid (PvdA), Wouter Bos, said during his first frontrunners debate for RTL4. The next day Bos was lauded in the press for his stance during the debate, which was perceived as evidence for the fact that, in addition to the Christen Democratisch Appel (CDA), the party of the prime minister, the PvdA, had also adopted the new 'we' style of thinking. The individual-oriented way of thinking of the nineties – everybody happy in his own way – was now replaced again with the idea that ultimately we are all in it together.

The image was clear: the purple liberal carelessness, which had characterized the Netherlands while entering the new millennium, had been torn to pieces by the rise of Fortuyn: the population was dissatisfied. Balkenende had picked up that signal very well. Now that it had finally become acceptable to talk about minorities, it was no longer possible to avoid the discussion about public corruption. The PvdA and VVD jumped on the bandwagon of the CDA. In an article from 1998, the public administrator, Mark Bovens, discusses the rise of communitarism in Dutch politics. Communitarism, as opposed to liberalism, sees the community as the solution to a problem. Liberalism emphasizes the role of the individual; the importance of a government that leaves its citizens in peace and that ensures that citizens also behave in this way towards each other. Bovens notices that in addition to the market place, morality becomes an important issue. He is surprised (already in 1998!) that not only the Christian parties hijack this idea. In 1994, the PvdA had referred for the first time since the 1950s to the notion of civil responsibility and the party had asked what it is that binds people together. The VVD also

contributed to the debate via its leader Frits Bolkestein, who wanted to make a clean separation from the so-called Veronica liberalism, which the VVD had followed in the eighties, and drew attention to the 'Christian background' of his party.

In the Netherlands, communitarism is spread across several parties. The CDA and the small Christian parties refer to the Christian tradition, whereas the PvdA and SP call for solidarity. In practice, it manifests itself as an obligation to support the education of children, the reduction of the number of coffeeshops, the battle against alcohol abuse, a ban on the wearing of the *burka*, a ban on violent video games, and so on. There is also a call for a 'Charter of responsible citizenship'. This reveals a weakness in the debate surrounding standards and values. The debate tries to open up the discussion about etiquette, the rules governing people's behaviour towards each other. However, the slogan *fatsoen moet je doen* [mind your manners] touches upon a crucial element. Indeed, it is about people behaving with decency. The government does not have much to do with this. 'Standards and values do not belong on a banner' was the opening line with which the Scientific Council on Government Policy began its piece on the standards and values in Dutch society. This is a serious blow to a government that has been over-ambitious, which can easily lead to a loss of confidence. After all, it is about individual action, personal virtues which can possibly be taught, but which people primarily have to implement themselves. Loutish behaviour and a lack of responsibility are mostly faults of individuals. The problem of unrealistic ambitions lies in the fact that the government promises to make these people more decent, something it will never succeed in!

Farid Tabarki is a researcher, writer and entrepreneur.

Poland: The state and civil society

Poland after Communism: the withering of civil society

Konstanty Gebert

'An accidental society has no right to vote on divine law'. Thus the ultra-Catholic MP, Halina Nowina-Konopka, commented in the 1990s on the proposal that a draft law banning abortion be first submitted to the nation in a referendum. The movement in favour of such a referendum was Poland's broadest civil society initiative since the fall of Communism. Grassroots activists, without the support of any party, had collected over half a million signatures in a matter of weeks in favour of letting the nation decide.

To no avail: the very popularity of the measure, presumably mainly among the opponents of such a ban, solidified opposition to the referendum among parliamentary 'pro-lifers'. They managed to push the ban through Parliament (Nowina-Konopka, for some reason, did not deem the body, just as 'accidental' as the society which had voted it into office, unworthy of voting on that), and abortion has been illegal in Poland ever since, with the predictable consequence of a thriving black market in abortions. What is more interesting is that Polish public opinion eventually followed its Parliament's lead: while most Poles had initially supported keeping abortion legal, an anti-abortion majority emerged in the years following the ban.

At first glance this result seems surprising. While the 'pro-life' majority in Parliament can be explained in political terms, especially given the importance of the Polish Catholic church, the shift in public opinion was puzzling. Reasons to oppose abortion had, if anything, been validated by the rise of expensive and potentially dangerous illegal terminations. Furthermore, Poland had, just a few years earlier, scored a historic victory by peacefully overthrowing the Communist regime – a textbook example of civil society triumphing over the state. The underground Solidarity movement had described itself in terms of 'independent civil society' and had, in fact, been just

that. Not only the persecuted trade union, and non-Communist political parties, illegal to begin with, had gone underground – much of civil society had done so too.

The underground included a vast independent publishing movement, uncensored education from the high school level upwards, social movements – greens, pacifists, professional organizations, down to underground theatre performances and clandestine medical journals. Nor was the underground a niche activity: it is estimated that about one hundred thousand Poles were active in it, and that this activity reached millions of others, consistently, over the eight years of military rule. Yet this thriving and dynamic civil society, still aglow with its success against the hated regime, had dismally failed to oppose an unpopular and restrictive move rammed through a democratic Parliament by a determined radical minority. Not only that, but it had ultimately ranged itself, at least publicly, on positions it had hitherto rejected.

It is hard to escape the conclusion that this vibrant civil society had simply petered out after its resounding triumph. This is confirmed by sociological indicators: in the numbers of NGOs, and especially in the percentage of citizens involved in them, Poland today is at the bottom of the European pile. In fact, in calling Polish society 'accidental', Nowina-Konopka was not wide of the mark – and today, over a decade later, the situation remains largely unchanged. This gave the state a huge advantage – and this advantage accrued to groups determined enough to seize the state in order to promote their ideological agenda. Not that the state was, in terms of participation, much more popular among Poles than civil society: voter turnout in national elections usually hovers around the 50% mark. But, as opposed to civil society, the state does not wither away when citizens lose interest: its institutions assure its permanence.

One reason for the triumph of the state over civil society in post-Communist Poland is that this description is somewhat misleading: in the transformation initiated in 1989, civil society had largely become the state. The massive transfer of political and social elites from the underground into officialdom, visible from the level of the national

Parliament to that of the local city hall, had left civil society decapitated – and confused: why should we oppose ‘them’, when ‘they’ were, in fact, ‘us’? The new political elites, soon to be bitterly divided among themselves, played endlessly on this syllogism: each tried to convince the electorate that they, and only they, were still ‘us’, while their political opponents, though originating from the same underground movement, had now become (or, worse, had always been) the hated ‘them’. The citizens, predictably, reacted to this by withdrawing from politics – yet the transfer of elites left them leaderless and increasingly cynical. Why bother setting up social movements, since they will fatally become only a springboard for leaders, eventually catapulting them into positions of state power, leaving the activists behind?

But, just as importantly, the underground civil society had organized around a political goal: throwing the Communists out. The social movements composing it were but instruments in achieving that goal; victory had left them without a mission. Had the new democratic state been as intrusive as the Communist one had been, people might have been forced into action. But, as the anti-abortion law had proven, this time the state’s bark was worse than its bite. There were very few prosecutions under that law, though the existence of a widespread black market in abortions is public knowledge. Since the state does not interfere brutally, there is no major reason to oppose it. On the contrary – one should rather be thankful for its tolerance of what it officially condemns. The new majority behind the anti-abortion law does not indicate that most Poles now agree that abortion is a crime; what it really expresses is an appreciation of the fact that one can live with the way the law is being implemented. For most of the last 200 years, Poles mainly had to live under different actively repressive and illegitimate regimes: surely one that is both legitimate and repressive in word, but not in deed, deserves some appreciation? Even if not so, there is no reason to organize outside it: everyone can find ways to come to terms with it individually.

And thirdly – not only was there no reason to organize outside the state, and no more leaders to show the way, but there was nothing to organize around. The underground had perceived itself not

only as a political movement, but, indeed, as a national one, in the ethnic sense – the social embodiment of the Polishness which the regime had betrayed not only politically, but culturally and spiritually as well. The only road to redemption, for its representatives, was to search for common ground with the movement and strike a compromise with it. Labour leader Lech Walesa’s famous ‘We spoke Pole to Pole’ after the successful conclusion of negotiations with the government after the great strike of August 1980 had set the tone: Poles will find a way to understand each other. One year later the regime betrayed that trust by imposing martial law on Poles, and Poland, not only Polish civil society, went underground. Those who chose not to were therefore seen not only as political opponents, but as national traitors: agents of Russia.

But this meant that the society which developed in the underground was in fact an ethnic, rather than a civil one, the bonds of solidarity based on ‘Pole to Pole’, rather than a civic compact. Had Poland, and therefore its underground, been more ethnically and religiously diverse, this bond could possibly have been challenged and transformed – but in a country made up of 95 per cent ethnically Polish Roman Catholics, this was hardly the case. 1989 saw underground Poland victorious and the state was once again invested with the ethnic bond. This, however, left society at large bereft of a unifying cause – but still rather unable to develop new compacts, transcending the ethnic bond. To this day, the visible presence, in a civil society movement, of Polish citizens who are not ethnically Polish – Jews certainly, but also Ukrainians or Germans – is reason enough to make it politically suspect in the eyes of the ethnic majority. An ethnic society masquerading as a civil one, also fooling itself, and getting away with it, for opportunities to see that a civic bond can be shared even in the absence of an ethnic one, are few and far between.

No cause, therefore, no leaders and no bond: no surprise therefore that Polish civil society is weak even now, almost two decades after the breakthrough. And yet this picture is changing as we speak. Single-cause movements: greens, feminists, gay rights are emerging, especially among the younger generation, for whom the story of the underground is no longer the reference point,

but rather a closed chapter of the past. These movements both have ample grievances, dedicated leaderships with no hope of being assimilated by the state and a self-perception totally disassociated from visions of 'Pole to Pole'. As Poland rids itself of the disastrous legacy of the 20th century, it enters the 21st as an 'accidental society' indeed, but in a novel sense. Not one made up of leaderless individuals, forced to submit to a state incarnating the nation, but an aggregation of different collective interests striving for recognition. In other words, a civil society. Its prospects finally start to look bright.

Konstanty Gebert is publisher of the Jewish intellectual monthly Midrasz, media consultant, of MDLF, an international credit fund for independent media and is the Polish representative of the US Taube Foundation for Jewish Life and Culture.

Sweden: The state and civil society

The state and civil society: Sweden and the end of Swedishness

Göran Rosenberg

There is nowadays little doubt that the nation-based welfare states of Europe largely owe their triumph to the successful combination of their constituents' loyalty to their nation as a warm circle of community and identity and their loyalty to their nation as a cooler and principled system of justice. The institutions of democracy have been equally defined by the craving for collective belonging, for a common 'we' in a world of 'others', as by the ideals of a universal brother-and-sisterhood.

Even mature national democracies where the warmer elements of nationhood had seemed safely submerged in a universal system of justice, like Denmark or Holland, have in recent years experienced the visible reemergence of the border between 'we' and 'them', between those to whom we can extend our emotional loyalty and those to whom we cannot, between those whom we can trust with our commitment and those whom we cannot. Even in the most principled democracies we can now imagine points of conflict where justice for all breaks down into loyalty *to your own*.

Sweden has arguably been one of the most ethnically and culturally homogenized nation-states of Europe. It has also arguably been the nation-state with the most distant and feeble collective memories of ethnic violence and war. Not only was it spared the great European wars of ethnic conquest and cleansing of the 20th century, but it was also allowed to effectively forget, or disavow, the memories of those sometimes violent and destructive wars in the 16th and 17th centuries in which the Swedish nation was politically and culturally defined. The formal concept of Sweden, embedded in the institutions of the state, and the informal concept of Swedishness, embedded in the traditions and notions of civil society, had thus not been in a visible conflict with each other in living memory. The Swedish state was increasingly perceived as a 'natural' extension of civil

society, while the civil society in Sweden increasingly shared in the formal functions of the state. The potential conflict between justice and loyalty was thus effectively made invisible or rendered irrelevant, allowing for the Swedish nation-state to perceive itself as a product of purely universal and rational ideas and notions.

In twenty years all this has changed, partly due to rapid changes in the ethnic and cultural make-up of the population of Sweden, partly due to the individualization and fragmentation of a rapidly globalizing society. Already in 1998 the Swedish government officially declared that the general policy of the state 'must originate in and reflect the ethnic and cultural diversity of Swedish society in a wholly new way'. It also stated that 'since a large segment of the population originates from another country, the population of Sweden lacks a common history'. The ideal of assimilation was thus decisively replaced by the ideal of integration, which is an ideal that calls for a continuous process of mutual accommodation between old Swedes and new Swedes. The outcome of 'integration' is still far from clear, while the specific government authority created for this purpose, The Swedish Integration Board, *Integrationsverket*, was subsequently disbanded (2007).

What does seem clear is that the potential conflict between state and civil society has again become visible, as emerging differences in cultural traditions and preferences have exposed the sometimes not so universalistic principles at work even in this, the most principled and universalistic of nation-states. The growth of socio-ethnic segregation and the widening of socio-ethnic gaps have most likely not been *caused* by the policies of integration, but they have certainly been highlighted by them.

The occurrence of genuine cultural differences in the *demos*, the people, the agent of *democracy*, is therefore a testing condition for any democracy, but perhaps more so for societies where the experience of cultural difference is relatively new and where the political implications of such differences have so far been largely avoided or ignored. A specific trait of the Swedish democracy is the notion that its citizens share a wide set of common values, that they are able to solve their conflicts in a spirit of matter-of-

factness and consensus, that the nation is a home and the people a family. The Swedish ethnologist Åke Daun explicitly includes 'conflict avoidance' among the features of a 'Swedish mentality' and defines it as 'a tendency to avoid direct conflict with people with whom you deeply disagree'.

The notion of Swedishness has thus turned out to be not so much a political or a legal category but a cultural construct. One might argue that such a construct must be reconstructed as its building blocks are crumbling, but these things don't change easily. The social and economic gaps between 'Swedes' and 'Immigrants' are persistent, as is the perception of Swedishness as a notion of cultural affinity.

Cultural pluralism is a far-reaching concept – if we take it seriously. It means that we must find ways to combine culturally embedded values, ideas and lifestyles – with political institutions and procedures that can command the loyalty of all. Cultural bias with culturally blind justice. Cultural pluralism with political loyalty.

If these implications have not yet been perceived and digested on the Swedish national level, then even less so on the European level. Pluralism and diversity have largely become empty catchwords, touted in endless lifestyle commercials and political proclamations. Few European leaders will publicly come out against cultural pluralism, but undercurrents of xenophobic isolationism are presently affecting the political climate of several European countries.

The traditional explanations of xenophobia being the result of social and economic grievances do not seem to explain very much. Denmark is a prosperous country with a booming economy, relatively modest unemployment and relatively few immigrants, but the public rhetoric against non-European immigrants in general and Muslims in particular is brutal and uncompromising. Foreigners threaten the welfare of the elderly, the safety of families, the Christian values of genuine Danes.

Here Sweden still remains an exception. No openly anti-immigrant or xenophobic party or movement has so far managed to capture or redefine the political agenda. The violent anti-Muslim public

rhetoric of Denmark is still unconceivable in Sweden, although Sweden harbours far more Muslims than Denmark. However this might not reflect a significant difference in popular sentiments and opinions. Rather it might reflect a significant difference in political culture and traditions.

What perhaps so far has made Sweden somewhat more resilient to the disintegrating and xenophobic potential of an increased ethnic cultural diversity, I would argue, is the still deeply rooted perception of the Swedish state as a basically fair and impartial institution, embodying universalistic principles and just procedures. The ongoing quest for policies and procedures to handle 'fairly' the challenges of cultural and ethnic pluralism has therefore so far been perceived as politically more credible and rewarding than the potential quest for policies and procedures promising the return to a more homogeneous past. This has also created a surprisingly broad political support for a policy that effectively purports to the decoupling of the notion of Swedishness from the notion of nationality and nationhood, and thereby to the continuous renegotiation of the cultural foundations of the Swedish state.

In a society where the institutions of the state have historically commanded strong popular support, such a process of renegotiation can still perhaps be initiated and fostered by institutions of the state itself, making the state a vehicle for the defusing and transcending of potential inter-ethnic conflicts within civil society.

But probably not for long. The bonds between state and civil society in Sweden are under pressure. If the historical trust between the two is further weakened there is no reason to believe that Sweden would be spared the emergence of openly populist and xenophobic parties and movements. The authority of the state to foster policies of cultural adjustment and accommodation would be further undermined.

At the end of the day we are facing the historical challenge of having a state based on democracy and difference, and a *res publica* based on ethnic and cultural diversity.

Diversity is not a choice but a human condition. Or

rather the human condition. Our ability to imagine diverse worlds, telling diverse stories, finding diverse meanings to our lives, creating diverse societies, is what makes us human. We can choose to have it divide us. We can, perhaps, also choose to have it unite us.

Göran Rosenberg is a journalist and writer and a board member of the Institute for Jewish Policy Research.

The United Kingdom: The state and civil society

Issues of relevance and problems of access

Tony Breslin

Society, state and government

Any discussion about the state and civil society is beset by problems of definition, both with regard to the terms set out in the title for this paper – ‘state’, ‘civil’ and ‘society’ – and with regard to a broader range of related concepts, notably ‘government’, ‘civic’ and ‘citizenship’. Let me start with issues of ‘society’, ‘state’ and ‘government’.

A long-standing mentor, colleague and friend makes particular play of the term ‘society’, imploring each cohort of Advanced Level Sociology students that he encounters to conclude the introductory phase of the course by *drawing* society – the students then give presentations to their peers outlining their portrayals (Moore, 2006). There is insufficient space here to explore precisely what we might mean by the term or how we might ‘draw’ it but there remains sufficient life in the concept to spark national debate whenever it is purposefully invoked on the public stage. In reflecting on our ‘broken society’, David Cameron might not agree with one of his claimed role models, Margaret Thatcher (Breslin and Dufour, 2006), that ‘...there is no such thing as society’ because ‘...we are all individuals now’ but, like his predecessor, he has provoked significant debate by talking about society, a point that was underlined to me recently by an adviser to one of Cameron’s political opponents – a serving and prominent junior minister – when he acknowledged that “...we might not like Cameron’s ‘broken society’ line but we’re all in the same territory”. Quite; whatever the definitional disputes, the strap-line of the organization that I lead,¹ the purpose of building *res publica* and the concerns of progressive and conservative politicians alike centre on how we might make society work better, how we might live together more effectively within and across community boundaries – note the

1 The Citizenship Foundation, in an attempt to express the organization’s approach to ‘citizenship’, uses as its strapline ‘Individuals engaging in society’.

significant concerns about ‘community cohesion’ that run through many of our current national debates – and how we might bring proper governance to those communities so that they are effective, just and sustainable in their form.

Although the terms are similarly contested, definitions of ‘state’ and ‘government’ are easier to pin down, at least for the purpose of the discussion that follows. Thus, we may think of the ‘government’ as that group, howsoever constituted, that is in power at any one point in time and has, therefore, significant control over the direction of public policy at that time. By contrast, in this context,² the ‘state’ is the formal and permanent machinery and agencies of government, or as two authoritative writers put it ‘the general system of authority in a country, made up of the government and (my italics) all the other institutions through which people are ordered and controlled’ (Thorpe and Jarvis, 2006). For the purposes of this discussion, our interest is twofold: We are concerned with the balance of power and the associated dynamics between the government and wider state – because if the state’s power is all-encompassing, then elected politicians are its puppets rather than our servants – and with the relationship between individuals and the state and the civil and civic mechanisms through which this is expressed. Again, with space at a premium, let us assume that in each of the countries engaged in the *res publica* exercise the government does have sufficient sway over the broader state to make democracy worthwhile. With such an assumption in hand, we are left to explore the latter concern and, here, notions of what constitutes the ‘civil’ and the ‘civic’ are critical, as is the conception of ‘citizenship’ with which we move forward.

Distinguishing between ‘civil’ and ‘civic’

In discussions about how the individual or group interacts with the government and the state, it is common to use the terms ‘civil’ and ‘civic’ interchangeably, to consider them synonymous. This is an error. Critically, in reflecting on the different *res publica* discussions, it is clear that the process through which individuals interplay with the state is

2 More benign notions of the ‘state’ (or ‘nation state’) refer simply to ‘a country or community with its own government’ (Thorpe and Jarvis, 2006).

mediated through two channels: a set of 'civic' conduits and institutions and a wider set of 'civil' relationships (Jochum, Pratten and Wilding, 2005). Very broadly, the 'civic' conduits operate in the formal sphere, while the 'civil' domain describes a much more complex, untidier and informal space. Thus, in terms of the 'civic', we would certainly think of formal politics – locally, regionally, nationally and, increasingly, beyond – and we would also think of long-standing organizations linked in to formal politics: political parties, trade unions, chambers of commerce. Finally, we might include larger 'voice of the sector' bodies such as, in the UK, the Trade Union Congress (TUC) and the Confederation of British Industry (CBI). Those that operate in the civic sphere are either a part of the apparatus of state or they are hard-wired into that apparatus by virtue of their influence, status and, perhaps, longevity. By contrast, 'civil' society consists of a myriad of usually smaller organizations and campaigning groups that range from locally based tenants' action groups and community support networks to nationally prominent charities and campaigning bodies, broadly defined in the UK as the 'third sector'.

Against this background, I want to suggest three things: first, that civil society is in better health than the civic frameworks with which it works from time to time; second, that the civic and civil spheres are becoming increasingly separated and that this is problematic for the future health of our democracies; third, that civil society needs to do better in reaching and including a far greater range of participants.

The perceived irrelevance of the 'civic' sphere

Shot through the *res publica* discussions and, in the UK, a range of recent reports (Power, 2006; Goldsmith, 2007; NFER, 2008) is a concern with declining levels of participation in formal politics, or, as we have it here, the 'civic' sphere. An initial response to these has been to cast the problem as one of apathy. However, the relative healthiness of the 'civil' sphere is a challenge to this – in the UK the numbers of (especially young) people active in a range of campaigns and campaigning bodies that span the political spectrum – from the Countryside Alliance through Make Poverty History to the Stop the War Coalition – are hardly an indicator of

apathy, although, as I shall outline later, the apparent narrowness of the demographic involved in these campaigns is a cause for concern. And if the problem is not apathy (or not just apathy), the required solution is different. Where apathy is the problem, the solution is to find ways of enticing reluctant voters to the polling station; where the problem lies in the nature and perceived irrelevance (and perhaps obsolescence) of the civic structures, the challenge lies in the renewal of these structures.

The UK government's Governance of Britain agenda (Ministry of Justice, 2007) is, in part, an acknowledgment that the latter concern is at least as significant as the former. The problem is less about political issues (although the protagonists may not define them as such) and more about a lack of faith – or 'trust', as it is often configured – in the systems and personnel of (formal) politics. The pan-European popularity of 'vote-them-off' television programmes such as *Big Brother* and *The X Factor* suggests that voting itself is not the problem – the way we 'do' formal politics is. Moreover, the increasing mood amongst activists in the civil sphere that formal politics lacks the wherewithal to address its issues suggests a separation between the civil and civic domains, a development to which I now turn.

The separation of the 'civic' and the 'civil'

Of course civil society activists have always questioned the value of formal politics. Such a question, whether reasonable or not, has been posed by just about every major protest movement. I want to suggest, though, that the separation between the two spheres, at least in the UK, is in danger of becoming entrenched and that this entrenchment results from two related dynamics.

The first of these dynamics relates to the long-term decline of those organizations that bridged the civil and civic spheres, creating reasonably clear route ways from community or workplace based civil participation to a place in the civic realm. Thus, the decline in the power, influence and profile of organizations such as the trade unions³ has a direct

3 In 2005 there were just under 6.4 million trade union members in the UK (Department for Trade and Industry, 2006) compared with 13.2 million members in 1979 (Annual Report of the Certification Officer. 1980).

impact on the ability of these bodies to prepare activists not just for *civil* engagement but also for political participation in *civic* life. The car factory apprentice encouraged (or sometimes obliged) to first join a trade union, then to attend union meetings and then to stand for some minor office has set out on a path that may subsequently lead to an invitation to join the local Labour Party – and standing for election to the local council at some later point. Until recently, this was not an uncommon biography for a Labour activist seeking nomination as a parliamentary candidate to bring to the selection process but a range of changes – notably in our industrial infrastructure, our methods of manufacture and the nature of our local communities – has unwittingly conspired to bring this particular production line to a close, and this has been helped by an additional dynamic: the professionalization of the routes into formal politics.

Herein lies the second dynamic that has contributed to the separation between the civic and civil spheres. When a current and comparatively youthful English Secretary of State talks of being ‘the first Labour MP in my constituency not to have worked down the mine’, he tells a story not just about industrial decline but about the changing ways in which those with political aspirations are recruited into formal politics, following a very particular induction that serves as preparation for a life in formal politics. Such an induction might typically involve a period working as an MP’s researcher, a period in the employment of a (deservedly) prominent think tank and a spell as a ‘Special Adviser’ to a senior political figure. Of course, much of this is good for the efficiency of politics and it attracts many of the best young brains into the formal political infrastructure. The risk, though, is that it recasts political representation as a full-time, lifelong, graduate entry career, by definition impacting on the diversity of backgrounds from which candidates are drawn and the breadth of experience that they are able to draw on from outside what is increasingly referred to, somewhat pejoratively, in the UK as the ‘Westminster village’ – a difficult village for the experienced civil society campaigner or the community or workplace activist to enter and one that can appear irrelevant and aloof. This narrowing of the routes into formal politics has real implications for the *res publica* project.

The need to broaden access to – and across – the ‘civil’ sphere

These criticisms of the civic sphere must not, though, mask problems within the civil domain and these too need to be addressed if the objectives of *res publica* are to be achieved. Here two observations, drawn, it must be conceded, largely from anecdote and personal experience, are pertinent: first, with the exception of local community or workforce based organizations, the internal diversity of third sector bodies is rarely as rich as the diversity that these bodies rightly campaign for externally – the typical third sector workforce is graduate educated (often to second degree), tightly networked, white and usually of middle class origin; second, there is a widening gulf between a small number of ‘super charities’ – which do enjoy good connections with the civic sphere not least because of their increasing role in the delivery of public services – and the wider third sector. Moreover, these problems have been accentuated by some of the initiatives designed to encourage wider participation: as I have argued elsewhere (Breslin, 2008), these well-intended initiatives have tended not to broaden the numbers involved but, instead, have opened up further opportunities for those already expert in participating, widening the ‘participation gap’, rather than closing it, in the process.⁴

If the sector as a whole is not to enjoy the credibility problems with the wider populace ascribed to formal politics earlier in this paper, these issues of diversity and access need to be addressed – and there is an accompanying need to ensure that the substantial benefits of engaging the ‘super charities’ in major service delivery programmes are dispersed all the way down the third sector food chain, delivering resources to locally based community activists and demonstrating to these activists that there is a conduit that they can progress through: from civil to civic to state. Only if we presume, as we should, a conception of civil society that embraces those active all the way across the third sector, can we talk meaningfully of the relationship between ‘civil society and the state’, for the term ‘civil society’

4 The author has developed this concept of the ‘participation gap’ in a series of seminar discussions during 2008 as part of a critique of participation initiatives to date.

only has meaning if it is plausibly accessible by all citizens.

Civil society, the state and a conception of citizenship

Citizenship is a contested term: at one level it describes literally the legal relationship between the citizen and the state (and, in this context, civil society is the lubricant that allows the two to work together), an approach that drives us towards a conception of citizenship as 'status'; at another, it describes the way in which individuals and groups, whatever their legal status, engage in public life (through both the civic and civil domains) as 'individuals engaging in society', an analysis that has us working towards an intrinsically inclusive notion of citizenship as 'process'. The citizenship education community has always tended towards the latter, developing the model of the 'citizenship rich' school, college and community in so doing (Breslin and Dufour, 2006; Citizenship Foundation, 2007), but perhaps ignoring a third conception of citizenship in the process.

This third conception of citizenship is the one that has exercised us greatly during the *res publica* discussions: it is around an understanding of citizenship as 'identity' or 'belonging'. Traditionally, the citizenship education community, in particular, has steered clear of debates about citizenship and identity (Interfaith Network, 2006; Breslin, 2006), essentially because matters of identity blur into matters of national identity which, in turn, blur into a conception of citizenship more concerned with matters of status than matters of process. In truth, this has left this community struggling to comprehend the debates about national identity – manifest in the UK around the current debate about 'Britishness' – that come through in the range of papers detailing the *res publica* discussions about national identity in a range of settings (Pinto, 2007-2008). The reality is that in an increasingly post-modern world where perpetual population movements, transient and fluid communities, less stable family arrangements and employment and career insecurity are the norm, issues of identity and belonging *become* a major issue, especially in those marginalized communities that feel continually buffeted by external pressures over which they feel

little control. It is in these communities, of course, where political and religious fanaticism emerges and where such fanaticism – with its complete but erroneous answers – seems to offer a 'security blanket' not offered by an enduring occupational or professional identity or the stability of residence or relationship.

Moving forward

Against this background detailed in this paper – and if the objectives of *res publica* are to be achieved – we need a process-based conception of citizenship that embraces concerns about identity and belonging and a conception of civil society that both reaches across the third sector – from volunteer-led youth or community group to established super-charity – and engages meaningfully, and where appropriate, structurally, with the civic apparatus of formal democracy. Only in such a setting can we begin to engage with the discussions about identity, diversity, commonality and multiculturalism that have been at the heart of the *res publica* discussions thus far. Only in such a context are the issues about the relevance of formal politics and the accessibility of both the civic and civil spheres outlined above likely to be addressed.

References

- Breslin, T. (2006), *Citizenship Education and Identity Formation*, in Johnson, N. (ed.) *Britishness: towards a progressive citizenship*, Smith Institute, London
- Breslin, T. and Dufour, B (2006), *Developing Citizens: a comprehensive introduction to effective citizenship education in the secondary school*, Hodder Murray, London
- Citizenship Foundation (2007), *The Citizens' Day Framework: building cohesive, active, engaged communities*, Citizenship Foundation, London
- Goldsmith, P. (2007), *Citizenship: Our Common Bond, Lord Goldsmith's Citizenship Review*, Ministry of Justice, London
- Interfaith Network (2007), *Faith, Identity and Belonging: Educating for Shared Citizenship: Report on a Seminar held on 7th February 2006*, The Inter-faith Network for the UK, London
- Jochum, V., Pratten, B. and Wilding, K. (2005), *Civil Renewal and Active Citizenship: a guide to the debate*, National Council for Voluntary Organisations, London
- Ministry of Justice (2006),

The Governance of Britain: a government green paper, The Stationery Office, London Moores, M. (2006), *Sociology and Citizenship: laying the foundations of the social curriculum*, in Breslin, T. and Dufour, B, *Developing Citizens: a comprehensive introduction to effective citizenship education in the secondary school*, Hodder Murray, London NFER (2008), *Citizenship Education Longitudinal Study (CELS) 6th Annual Report: Young Peoples' Civic Participation In and Beyond School: Attitudes, Intentions and Influences*, Department for Children, Schools and Families, London Pinto, D. (2007-08), *Voices for the 'res publica': a series of reports on the national roundtable seminars*, unpublished Power (2006) *Power to the People: the Report of Power – an Independent Enquiry into Britain's Democracy*, Joseph Rowntree Charitable Trust / Joseph Rowntree Reform Trust, York Thorpe, T. and Jarvis, R. (2006), *Inside Britain: a guide to the UK constitution*, Citizenship Foundation, London.

Tony Breslin is Chief Executive of the Citizenship Foundation. He is involved in a range of bodies and advisory groups dealing with education, civic renewal, diversity and identity and educational provision.

jpr/ Institute for Jewish Policy Research
7-8 Market Place
London W1W 8AG
United Kingdom

Tel: +44 (0)20 7436 1553

Email: jpr@jpr.org.uk
www.jpr.org.uk