

# How immigration is changing citizenship: a comparative view

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## Abstract

This article compares the impact of post-war immigration on citizenship in three Western states: the United States, Germany and Great Britain. While focusing on national variations in the immigration-citizenship relationship, this comparison suggests some general implications for the institution of citizenship in liberal states: citizenship remains indispensable for integrating immigrants; the content of citizenship may change, in deviation from nationhood traditions; and citizenship is becoming increasingly multicultural.

**Keywords:** Citizenship; immigration; race and ethnicity; US; Germany; Britain.

'Citizenship' is on everyone's mind today. Conservatives have rediscovered the duties and virtues of citizenship as an alternative to over-expanded welfare states (Commission on Citizenship 1990). Liberal-leftists have sought to reconcile the equal rights of citizenship with cultural pluralism and the recognition of difference (Kymlicka 1995). These are critical responses to the liberal post-war orthodoxy, codified by T.H. Marshall (1992), in which citizenship was conceived of as expanding categories of rights (not duties), equally bestowed on expanding categories of persons, without consideration of their inherent characteristics.<sup>1</sup>

Immigration is one reason why Marshallian citizenship universalism is no longer plausible today. The movement of people across states revealed that citizenship is not only a set of rights, but also a mechanism of closure that sharply demarcates the boundaries of states (see Brubaker 1992, ch. 1). As a mechanism of closure, citizenship (commonly ascribed at birth) is like a filing mechanism, distributing people to just one of the world's many states. Entry into the territory of a state is the right only of the citizens of this state; it can be denied to everyone else. Even for those who manage to enter the territory of another state, access to this state's citizenship is generally denied, and available only if demanding (residence and personal) characteristics are fulfilled, which are differently conceived in different states.

There is a second way in which immigration has stirred up the Marshallian citizenship orthodoxy. Even if immigrants have acquired the citizenship of (or, at least safe membership status in) the receiving state, they are often not content with enjoying equal rights. As carriers of ethnic difference, immigrants notice that even liberal states, which are philosophically indifferent to the cultural preferences of their members, are couched in distinct cultural colours – its official language, holidays, or church relations cannot but privilege the ethnic majority population over the immigrant minorities. This is the starting point for various programmes of multicultural citizenship, which seek to accommodate the distinctive needs of culturally excluded groups (not only immigrants) within the universal citizenship framework.

Immigration thus revealed citizenship in a new, post-Marshallian light, as a legal status and identity that excludes rather than includes people. This is differently reflected in three recent works on citizenship. Rogers Brubaker (1992), the true galvanizer of the contemporary debate on citizenship and immigration, reconceived modern states as bounded membership associations, in which the bounds of membership are differently drawn according to different nationhood traditions. Accordingly, in the political nation of France the boundaries of citizenship are more permeable for immigrants than in the ethnic nation of Germany. What Brubaker made the subject of investigation, Yasemin Soysal (1994) takes as a premise: national citizenship as a device of exclusion. But she concludes from her analysis of guestworker rights in post-war Europe that exclusionary citizenship does not matter much. The guestworkers have achieved safe membership status without becoming citizens. They are heralds of a new form of ‘postnational membership’, anchored not in national belonging but a world-spanning discourse of universal human rights.<sup>2</sup> Finally, Will Kymlicka (1995) has argued normatively that the equal rights of citizenship are not enough to integrate culturally different groups, such as immigrants. People need intact cultures to make autonomous choices. However, voluntary immigrants have also ‘waived’ the right to have their homeland cultures resurrected in the receiving society. All they can legitimately expect are ‘polyethnic rights’, such as exemptions from certain laws that disadvantage them, and the thrust of these rights is not separation of immigrants as a group but their better integration.

These three works entail competing propositions of how contemporary immigration has reconfirmed or changed the institution of citizenship in modern states. Brubaker’s is an argument for the ultrastability of national citizenship models, which – once they are established in critical historical moments – prevail relatively unchanged over historically variable immigration movements.<sup>3</sup> Certainly, the labour migrations of the post-war period have diversified the membership categories in Western states; many labour migrants have settled for permanent resident status

short of citizenship. However, such denizenship is taken as 'conspicuous deviation' from the norm of national citizenship, and thus subject to eventual correction (Brubaker 1989, p. 5). Soysal, by contrast, elevates such denizenship into a new and stable model of postnational membership, which makes national citizenship less relevant, if not dispensable, for immigrants. This new membership model, grounded in transnational human rights regimes and discourses, is not a deviation subject to correction, but a new institutional form that 'transgresses the national order of things' (Soysal 1994, p. 159). Kymlicka's, finally, is not primarily a work of sociology but of philosophy, and immigration fares only peripherally in it. But one of its claims is that the differential minority rights complementing equal citizenship rights are not only defensible through philosophy, but are also (however incomplete) a reality in liberal states (see Kymlicka 1995, ch. 4). To the degree that Kymlicka's is a work of empirical analysis, it depicts liberal states as no longer assimilating their immigrants, but as respecting and protecting the ethnic identities of the latter. Kymlickaian 'multicultural citizenship' thus takes an independent third stance in the current debate about immigration and citizenship, distinct from both Brubakerian citizenship traditionalism and Soysalian membership postnationalism. It argues, against Soysal, for the continued relevance of nationally bounded citizenship (because intact national cultures are a prerequisite of liberty),<sup>4</sup> but sees such citizenship, against Brubaker, as malleable and accommodative of cultural pluralism.<sup>5</sup>

In the following, I shall compare the relationship between immigration and citizenship in the United States, Germany and Great Britain in the light of these competing theories. Why compare these three cases? All three are liberal states, but characterized by divergent nationhood traditions and immigration experiences: a political nation routinely absorbing permanent immigrants (USA); an ethnic nation recruiting temporary labour migrants (Germany); and a multi-ethnic nation and devolving empire facing post-colonial immigration (Great Britain). The three cases thus exhaust the variety of immigration experiences in post-war Western states, filtered through a good part of the distinct nationhood types that can be found in the West. The cases combined approximate the wide spectrum of immigration-citizenship constellations in Western states.

If one uses the citizenship theories so far discussed as guides to the comparison, each of them would predict a different scenario. Brubaker's citizenship traditionalism, which stresses the inertia of national citizenship traditions, would predict the uniform pressure of states to mould new members in the light of the old, and a distaste for tolerating new membership forms and identities that deviate from national citizenship. Soysal's membership postnationalism, which postulates the rise of the same model of universal personhood across states, would predict a weakening of nationally particular citizenship models and the institutional stabilization of similar denizenship forms and new identities

across states. Kymlicka's multicultural citizenship (with the caveat that this is in the first place a work of normative theory) would predict that citizenship, though mellowed by cultural pluralism and minority rights, remains the main vehicle for integrating immigrants.

As we shall see, each of these theories catches a slice, but none of them catches the full complexity and multiplicity of immigration and citizenship problematiques across states. Perhaps a general theory of immigration and citizenship is impossible: one cannot say more about them than what one finds in specific contexts and constellations. Accordingly, the following comparison has a moderate aim. It outlines the particular citizenship conceptions in place at the point of new immigration, and seeks to capture the different ways in which the immigration experience reconfirmed or transformed these citizenship conceptions. The local explanations provided in this comparison still have general implications. Against citizenship traditionalism, they reveal the malleability of citizenship in liberal states; against membership postnationalism, they show that national citizenship remains indispensable for integrating immigrants; and beyond Kymlicka they show that multicultural citizenship is widely (though differently) institutionalized in liberal states, in rudiments even regarding the closure aspect of citizenship.

One reason for the multiplicity of immigration and citizenship problematiques revealed in the following comparison is the polyvalence of citizenship, not just in its different national incarnations, but as a concept itself. In regard to immigration, citizenship has at least two different meanings. As a legal status, citizenship denotes formal state membership (nationality). As an identity, citizenship refers to the shared understandings and practices that constitute a political community. The identity aspect of citizenship is linked to the question whether culturally distinct groups should be granted special group rights or not. As we shall see, in some countries immigration has provoked debates about citizenship as a legal status (Germany); in others, immigration has provoked debates about citizenship as an identity (United States); and in still others, it has provoked debates about both (Great Britain).

### **'Race' as a challenge to citizenship: the United States**

In the United States, citizenship as a legal status is 'thin citizenship' (Heller 1997, pp. 26–27), easy to acquire if certain residence conditions are fulfilled, and conferring few privileges beyond those already granted to legal permanent residents. This is not because of global human rights discourse inventing a new form of postnational membership. Rather, in a society cherishing markets over the state and the open border over bounded community, entry and residence have always been more meaningful than citizenship. Accordingly, the American Constitution and legal order make personhood and residence, rather than citizenship,

protected categories. A formal citizenship was only introduced with the 14th Amendment in 1868, with a limited purpose in mind: the enfranchisement of black slaves (see Bickel 1975; Ueda 1982). Because of its elasticity and low acquisition threshold, American citizenship as a legal status has generally not been challenged or modified since the country's reopening to mass immigration in the mid 1960s.<sup>6</sup>

Instead, American citizenship as an identity has come under fire. Post-1965 immigrants, predominantly from Latin America and Asia, arrive in a political environment that classifies them as 'racial minorities', and thus locks them into a corporate category between individual and citizen. Previously, immigrants had carried with them an ethnicity that functioned as a cushion to the receiving society, and had an assimilatory effect – the best example being ethnic 'machine politics' in America's big cities, which socialized immigrants into the American politics of non-ideological spoils and patronage (see Erie 1988). Such ethnicity eventually thinned down to symbolic ethnicity (see Gans 1979; Waters 1990), which was easily reconciled with the ethnically anonymous, political concept of American citizenship and nationhood (see Gleason 1980). 'Race' is different. Its content is not a positive heritage transplanted into (and modified by) the receiving society. Its content is a negative one, oppression at the hands of the receiving society. Its direction is not integration into a (white) majority society deemed oppressive, but restitution for harm and guaranteed existence as a separate group. The race paradigm underlying the integration of Third-World immigrants differs in two respects from the ethnicity paradigm that had undergirded the integration of south-east European immigrants. First, it denounces integration (now negatively associated with the old 'melting pot' ideal) as forced homogenization, with 'American' as a code-word for 'white supremacy' (Almaguer 1996). Secondly, ethnicity was a private category; it had no bearing on law and state policies. By contrast, race is a public category, around which an elaborate regime of civil rights protection and identity production has been built.

The institutional pillars of the American race regime are affirmative action and multiculturalism in education. It is important to note that both were originally attempts to compensate the victims of American nation-building, most notably the descendants of black slaves; they have only later and indirectly been pirated by Third-World immigrants. Affirmative action is the preferential hiring, admission to college, and political representation of designated racial minorities according to their availability in the workforce or their population share. It is the unintended consequence of an originally colour-blind civil rights law, whose guiding principle transmuted under the pressure of executive orders and federal court rules from 'equal opportunity' to 'equal result'.<sup>7</sup> Ironically, the colour-blind logic of civil rights law (whose crafters had only American blacks in mind but could not name their addressee) enabled its piracy by

other groups. This law spoke abstractly of ‘citizens’, ‘individuals’, or ‘persons’ who were to be protected from discrimination on the ground of ‘race, color, religion, or national origin’ – this allowed the inclusion of groups other than blacks. Once the focus shifted from equal opportunity to equal result, state agencies were forced to carve out the groups whose proportional representation in the workforce, higher education, or the political process were to be guaranteed. Through sheer administrative fiat (see Lowry 1982), state agencies settled on four racial minorities: blacks, American Indians, Asians and Hispanics. While no explicit justification for these choices has ever been provided,<sup>8</sup> there was good reason to bring American Indians, Asians and Hispanics under the umbrella of civil rights law too: all had suffered discrimination in the process of American nation-building. American Indians had been the victims of genocide; Asian immigrants had been the subject of racial exclusion, as in the Chinese Exclusion Act of 1882 and the internment of Japanese-Americans during World War II; and the Hispanics in the American south-west had been forcibly incorporated (and subsequently segregated) after the Mexican-American War of 1848. But ‘historical accident’ (Skerry 1989, p. 88) would have it that two of the groups classified as ‘protected classes’ under civil rights law, Asians and Hispanics, would also form the vast majority of post-1965 immigrants, who could not look back on a history of discrimination at the hand of Euro-America. The affirmative action context thus transformed even those who had come to America by individual choice into members of long-entrenched, domestically oppressed racial groups, not unlike American blacks.

Multiculturalism in education, which consists of the establishment of non-Western-centric curricula, ethnic studies programmes, and federally mandated bilingual education, has helped to breathe life into the administrative affirmative action categories. Far from being an oppositional movement of radical educators, as which it sometimes likes to present itself, multiculturalism today is the orthodoxy in American education. ‘We are all multiculturalists now,’ wrote a former critic of multiculturalism (Glazer 1996). Multiculturalism induces students to see themselves as members of racial groups. The Berkeley Diversity Project (1991), a research effort to examine how undergraduates experience ‘the new ethnic and racial diversity’ at the University of California’s Berkeley campus, described the personal conversion as ‘racialization’, ‘a development where social relations that were formerly defined in terms of factors other than race come to be defined in racial terms’ (Diversity Project 1991, p. 44). The authors of the Diversity Project noted that many of the Asian-American students interviewed did not initially identify with the label ‘Asian-American’, and that ‘several talked about having to *learn what it means to be Asian American*’ (ibid, p. 23).

Affirmative action and multiculturalism have conditioned the incorporation of the large bulk of post-1965 immigrants in ethno-racial

terms, as 'Hispanics' and 'Asians'.<sup>9</sup> These are artificial categories that lack a national referent; they have no meaning beyond the American domestic sphere. Its content is not transplanted cultural heritage, but a domestic legacy of oppression, originating in a pre-migration phase, but strangely prolonged to migrant groups. 'The term Asian American arose out of the racist discourse that constructs Asians as a homogeneous group', argues an influential treatise on *Asian American Panethnicity* (Espiritu 1992, p. 6). This is slightly misleading (as Espiritu later admits), because the term Asian American had originated in the anti-racist discourse of the campus-based Third-World movement and in the administrative discourse of affirmative action.<sup>10</sup> In fact, the phenomenal growth of the Asian American population from under one million in 1965 to over seven million by 1990 is precisely due to the *removal* of racism in the immigration system. Accordingly, not external racism, but the reinterpretation of ethnic experience in terms of race is the origin of 'Asian American'. A scholar-activist's statement that 'the notion of an Asian American identity seemed to be emerging when I was a freshman at Berkeley' (Ong Hing 1994, p. 169) has to be taken at face value. Of course, this does not mean that 'racism' is a figment of the anti-racist imagination. But this imagination extrapolates 'racist' events and episodes into the group- and society-defining experience, also because there is little else that Chinese, Japanese, or Korean Americans have in common. Among the components of this negative 'history of exploitation, oppression, and discrimination' (Espiritu 1992, p. 17) are keeping alive the memory of 'Oriental' exclusion,<sup>11</sup> dramatizing the resurgence of racially motivated 'hate crimes',<sup>12</sup> and destroying the 'patronizing' notion of model minority.<sup>13</sup> The identity created by this exercise has little in common with immigrant ethnicity. As Yen Le Espiritu (1992, p. 50) correctly points out, pan-Asianism is 'the ideology of native-born, American-educated, and middle-class Asians' that 'barely touche(s) (*sic*) the Asian ethnic enclaves'.

The ethnogenesis of immigrants is a complicated, multi-causal process, in which the racial labelling by state administrators and educators interacts with many other factors, including the experiences and interpretations of immigrants themselves, yielding new (and often paradoxical) combinations and outcomes. In a suggestive survey of second-generation middle-class Chinese and Korean Americans, Nazli Kibria (1997, pp. 530ff) noted that some respondents reinterpreted and reinforced the traditionally racial understandings of 'Chinese' and 'Korean' (which command lineage purity and inmarriage) in terms of a 'defence against racism'. Among the majority of her respondents, however, she observed the emergence of a 'pan-Asian American identity' that was centred not on political victimization, but on cultural communalities. In this identity, the lines between 'race' and 'ethnicity' are blurred. The respondents' preference for pan-Asian (and thus racial) inmarriage was justified in

reference to the shared 'Asian values' of family, education and hard work – the pillars of classic immigrant ethnicity, which are held against an unhyphenated white majority society deemed morally inferior and in decay. These findings are not inconsistent with the argument presented here. The racial labelling of immigrants by the American political context is only one among a multiplicity of factors shaping immigrant identities. And if predominantly political or cultural, 'panethnicity' suggests that assimilation is neither a likely nor a desirable outcome of immigrant incorporation: '(P)an-Asian ethnogenesis rather than assimilation to mainstream society is likely to be the dominant mode of incorporation' (ibid, p. 541).

There are signs that the 'differentialist moment' (Brubaker 1998) in American immigrant reception has passed its peak. The proliferation of ethnoracial group claims has set in motion an academic and political counter-movement stressing the virtues of assimilation and colour-blind citizenship.<sup>14</sup> A string of recent Supreme Court Rules has greatly curtailed the possibilities of state and federal governments to pursue racial preference programmes (see Eastland 1996). California's Proposition 209 (the successful 1996 referendum that would outlaw all affirmative action measures in this State), attests to the rise of a popular backlash movement against rampant affirmative action. Even some beneficiaries of affirmative action are having second thoughts: 'Asians', educational high-performers who see the quota-logic of affirmative action turning against them, are about to opt out of the minority pantheon (see Dong 1995); 'Hispanics' have recently turned sour about mandatory bilingual education programmes that retard the English-acquisition and educational advancement of their children.<sup>15</sup>

Most importantly, the ethnoracial challenge to common citizenship identities, in combination with other factors, has stirred calls for upgrading the meaning of legal citizenship (see Aleinikoff 1998; Neuman 1998). Since Mexico in 1997 allowed her emigrants to naturalize in the US without losing their Mexican nationality, dual citizenship has become the subject of intense debate, and some have demanded that naturalization be made contingent upon an applicant's proved divestiture of his or her old nationality. For its critics, dual citizenship contradicts the political loyalty oath that naturalizing immigrants are obliged to take; some even see the former as a Trojan Horse for the Mexican *reconquista* of the American south-west. However, the attempt to toughen the naturalization process (whose outcome is uncertain at best) must be seen against the backdrop of a uniquely liberal, constitutionally anchored *jus soli* citizenship regime, which prevents the US from checking the loyalty and assimilation of her second-generation immigrants. 'Americanization', which seemed forever tainted by the smell of white nativism, has received a new lease on life in the impeccably liberal Federal Commission for Immigration Reform, whose final report of September 1997 urges the



federal government to better 'Americanize immigrants' before naturalizing them.<sup>16</sup> But the meaning of Americanization now includes that immigrants learn to 'respect other cultures and ethnic groups'. Even the advocacy for assimilation has taken on an unmistakably multicultural cloth.

### **From postnational membership to citizenship: Germany**

The German immigration and citizenship problematique is diametrically opposed to the American one. Its baseline is a thick concept of citizenship, which is genealogical rather than territorial, and thus normally closed to non-nationals. Accordingly, post-war immigration has put enormous pressure on citizenship as a legal status, towards facilitating its acquisition by long-settled and later-generation immigrants. In turn, there has been little debate about the ethnicity or race of immigrants, partially because there were few non-white immigrants, and partially because ethnicity and race are concepts delegitimized by recent German history.

The German case shows the relative validity, as well as the limitations, of both Soysal's diagnosis of postnational membership and Brubaker's insistence on the stability of national citizenship traditions. In the former West Germany the integration of its guestworkers was characterized by the coexistence of traditional ethnic citizenship, closed to foreigners, and of postnational membership, in which the universal human rights provisions of the Basic Law endowed settled foreigners with most of the rights and privileges that Germans enjoyed. These were two sides of the same coin: postnational membership allowed the maintenance of ethnic citizenship, which survived after its delegitimization by Nazism only indirectly, as the homeland obligations of the Federal Republic to the ethnic German diaspora in communist Eastern Europe.

However, national reunification has brought to an end the temporary coexistence of ethnic citizenship and postnational membership. With the demise of an ethnic diaspora to redeem, there is no longer a rationale for maintaining ethnic citizenship. In addition, the wave of xenophobic violence in postunity Germany has thrown the problem of integrating second- and third-generation immigrants into sharp relief, exerting pressure on a descent-based citizenship regime that keeps even the children of those foreigners who were themselves born in Germany outside the national community. Pulled by a legal citizenship regime that has lost its historical legitimacy, and pushed by the problem of integrating young foreigners born in the country, Germany is now moving from an ethnic towards a civic-territorial citizenship regime. The German case thus carries a double message for citizenship theory: against membership postnationalists, it shows that citizenship matters; against citizenship

traditionalists, it shows that the content of citizenship may change from ethnic to civic.

The first step towards a civic citizenship regime occurred with the introduction of as-of-right naturalization in 1992.<sup>17</sup> This has fundamental ramifications, which few have as yet realized. The two core principles of the old Naturalization Rules, absolute state discretion and cultural assimilation as preconditions for citizenship, no longer apply.<sup>18</sup> Assimilation is simply deduced from an applicant's length of residence; it is no longer examined, case by case, in terms of his or her economic situation, cultural orientation and crime record. This means that 'assimilation' is effectively void as a criterion of one's being granted citizenship. This makes the German naturalization process more liberal than the American, which is still based on an individual assimilation test (however minimal). As a result, membership in the German nation-state is not any more premised on being part of the ethnocultural nation. This allows two interpretations: first, that state and nation are effectively decoupled, because membership in the latter is no longer a precondition for membership in the former; secondly, that the meaning of German nationhood is itself undergoing transformation, because it can no longer be defined in ethnic terms, but will now have to include and absorb as a matter of course non-German entrants. If one adds the factor of time, these two interpretations are really one. If the nation qua ethnocultural nation is no longer the basis of the German state, this cannot mean that the latter is becoming a non-national state – nation-states are, after all, the unit of world politics. Rather, it means that, over time, German nationhood will have to be defined more along civic-territorial than exclusively ethno-genealogical lines.

Some cite Germany's stubborn refusal to accept double citizenship as proof that a liberalized naturalization process does not matter much. This is misleading. It is correct that Germany is the only major immigrant-receiving state in Europe that still refuses to tolerate double citizenship, and in this refusal, indeed, hangs the whole legacy of ethnocultural nationhood.<sup>19</sup> However, formally rejected double citizenship is informally widely accepted. In the cases of ethnic Germans, children of bi-national parents, and children born to German parents in *jus soli* countries, double citizenship is routinely accepted. Even among the discretionary naturalizations of foreigners, at least one third results in double citizenship (Hoffmann 1994, p. 262). This is because German authorities are increasingly generous in allowing exceptions if the applicant faces undue hardship – such as military service as a precondition for being released from Turkish citizenship. The Turkish side also has recently shown more flexibility. After being lobbied by a leader of Turkish immigrants in Germany, the Turkish government now permits its released citizens to re-acquire Turkish citizenship instantly. As a result, most Turkish applicants for German citizenship divest themselves

of their old citizenship only temporarily, for the sake of satisfying German authorities. No wonder that the naturalization rate of Turks almost tripled between 1993 and 1995. A recent survey found 'an almost dramatic increase' in the intention of Turks to naturalize (Mehrländer *et al.* 1996, p. 455). Significantly, among the 46.7 per cent of Turkish respondents still refusing to naturalize in 1995, the large majority simply wanted to retain their national identity; practically no one mentioned legal obstacles as a reason (*ibid.*, p. 413). These obstacles factually no longer exist.

The complete transformation of Germany's citizenship regime now hinges on reforming its antiquated core, the birth attribution of citizenship through *jus sanguinis*. It is sometimes overlooked that all continental European citizenship regimes are *jus sanguinis* regimes. However, Germany has been the only immigrant-receiving country not to complement the rule of blood with the rule of territory, *jus soli*. For long, the unresolved national question was responsible for this, but also the fear – shared across party and ideological lines – to Germanize foreigners against their will. Now that these fears have dissipated, the formal rejection of double citizenship has so far prevented a reform of the *jus sanguinis* regime. The first cautious government proposal to institute *jus soli* tried to 'have its cake and eat it', by attributing citizenship territorially and avoiding double citizenship. The so-called 'children's citizenship' (*Kinderstaatszugehörigkeit*) was the attempt of the Christlich-Demokratische Union [CDU]/Christlich-Soziale Union [CSU] (Bavarian sister party of CDU) to live up to its 1994 coalition agreement with the liberal Freie Demokratische Partei [FDP], which had envisaged an encompassing reform of citizenship law. A *Staatszugehörigkeit* rather than *Staatsangehörigkeit* (nationality) is an untranslatable thing, a provisional quasi-nationality not known in international law. It would not come automatically, but only if the parents applied for it before the child's twelfth birthday, and it would expire on the child's nineteenth birthday, if the child did not divest itself of its other nationalities. Not a true nationality, this novelty in international law would not shield the child from the clutches of Foreigner Law, such as – in the extreme – deportation. And, as Gerald Neuman (1995, p. 55) pointed out, 'it is not clear why parents who decline to naturalize would choose it for their children'.

What is interesting about the *Kinderstaatszugehörigkeit* is not its muddled conception, but the fact that the old federal government had broken the ground for an entirely new citizenship regime. Even within the CDU, the inconclusive quasi-nationality was subjected to scathing criticism, and furthergoing *jus soli* proposals were launched immediately. Johannes Gerster, who had still rejected *jus soli* as 'forced Germanization' in 1993, came out for automatic birthright citizenship in 1994, under the condition that at majority age an individual had to decide on one citizenship only.<sup>20</sup> Gerster is not alone in his party. He is supported by an

assertive group of young Bundestag deputies, who have no mercy for the 'abstruse' *Kinderstaatszugehörigkeit*, and, for a while at least, deemed themselves supported by Chancellor Kohl himself.<sup>21</sup> For Wolfgang Schäuble, the chairman of the CDU parliamentary faction and liberal architect of the 1990 Foreigner Law, it would not have been 'the end of the world' to reconceive the quasi-nationality as full nationality; in German, it amounts to as little as replacing the *zu* in *Kinderstaats zugehörigkeit* with an *an*.<sup>22</sup> Two letters only, but still a difference of principle. As the obstinate opponents of double citizenship correctly see, once German citizenship were to be granted at birth, it would be practically impossible to take it away later.

A CDU reform advocate noted that the continued rejection of double citizenship is 'hard to explain in rational terms'.<sup>23</sup> However, the entire legacy of ethnocultural nationhood is invested in this rejection. One cannot expect it to go without a fight. Its chances are nevertheless slim, especially since the victory of Sozialdemokratische Partei Deutschlands [SPD] and Greens in the federal elections of 1998. The new government promptly announced a thorough reform of citizenship law, which included the introduction of *jus soli* and the toleration of double citizenship. Key of the envisaged reform was to grant automatic German citizenship to children born in Germany to foreign parents, if at least one parent was born in Germany him- or herself, or had been residing there since the age of fourteen. In addition, all other foreigners were to be given the right to naturalize after eight (instead of fifteen) years of residence, without being required to give up his or her old citizenship. This would have finally adjusted the law to administrative practice, in which double citizenship had already been widely tolerated. After a cynical and polarizing signature-gathering campaign by the new opposition parties of CDU and CSU, the government was forced to abandon its first reform proposal in favour of the so-called 'option model'. According to the latter, a child born to foreign residents in Germany would still receive German citizenship at birth, but would have to decide by the age of twenty-three between its German or its second citizenship. The option model bows to the mighty societal groundswell against double citizenship that was unleashed by the opposition parties' street tactics, but still amounts to a civic-territorial redefinition of citizenship in Germany. Less than ten years have passed since national reunification made this development possible. Future historians will note the speed with which Germany has divested itself of its historically entrenched yet functionally obsolete ethnic citizenship.

### **From citizenship to race: Great Britain**

Great Britain shows an altogether different relationship between immigration and citizenship. Until 1981 Britain had no citizenship at all, but

only a thin, pre-national concept of subjectship, defined as allegiance to the Crown, which included both Borneo cannibals and noble Lords. In addition, Britain dealt with post-colonial immigrants who had the same legal status as the native population. From this it follows that there was no Brubakerian citizenship traditionalism that could be put to the test by immigration; and there was no 'postnational membership' *à la* Soysal that could take the place of outmoded national citizenship. The whole dichotomy of citizenship traditionalism and membership postnationalism is inappropriate for the British case.

Britain had two very different citizenship debates in response to its New Commonwealth immigration. One was related to the problem of immigration control. The legacy of empire had left Britain devoid of a national citizenship, in which identity coincided with formal nationality. Consequently, the devolution of empire meant adjusting an over-inclusive nationality to an exclusive identity based on 'blood and culture' (Paul 1997, p. 26). This process culminated in the British Nationality Act of 1981. The Act consolidated the already existing restrictions for New Commonwealth immigrants by introducing the category of British citizen that alone conferred the right of abode in the United Kingdom. Note that this belated introduction of national citizenship narrowed rather than widened the circle of those entitled to belong, and that it ethnicized a previously (quasi-)civic definition of political membership. Britain thus moved in exactly the opposite direction to Germany, which widened the circle of those entitled to citizenship and moved from ethnic to civic criteria of membership.

However, citizenship was also the idiom of integrating New Commonwealth immigrants. These immigrants arrived as quasi-citizens, with full civil and political rights. The next logical step was to give them equal social rights as well. This was supported by the fact that the arrival of the immigrants coincided with the building of a national welfare state, and Marshallian citizenship universalism was the idiom of the day. The Marshallian citizenship idiom is visible, for instance, in the Labour government's influential White Paper *Immigration from the Commonwealth* (1965), which sought to avoid, by means of providing adequate housing, education, employment and health care, immigrants becoming 'second-class citizens' (p. 10). Built in opposition to the 'shame' and 'stigma' inherent in the old poor laws, the logic of the British welfare state was provision on the basis of individual need, rather than group status. As Richard Titmuss (1907–1973), one of the intellectual architects of the British welfare state, put it, 'It is not . . . an objective of social policy to build the identity of a person around some community with which he is associated' (quoted in Kirp 1979, p. 59). Applied to Commonwealth immigrants, the Marshallian citizenship idiom entailed a nervously guarded policy approach of 'racial inexplicitness' (Kirp 1979). This was also in conscious delimitation to the parallel American development

(from colour blindness to colour consciousness), which has always been closely monitored in Britain. Accordingly, the 1965 White Paper suggested that inadequate housing for immigrants should not be remedied through any 'special treatment' of immigrants, but through 'a determined attack on the housing shortage generally' (p. 10). Still in 1979, an Ethnic Groups Bill (targeting second-generation immigrants for special education and social service measures) died during the last hours of the Labour government, over charges of 'positive discrimination', claims-proliferation, and group separatism.<sup>24</sup>

Marshallian citizenship universalism has always coexisted uneasily with acknowledging the racial difference of New Commonwealth immigrants. The same 1965 White Paper that had prescribed racial inexplicitness also acknowledged that the United Kingdom was 'already a multiracial society' (p. 10), and the British regime for integrating immigrants presented itself from the start as a 'race relations' regime. Accordingly, a precarious balance between citizenship universalism and racial group particularism became characteristic for British immigrant integration. Over time, this balance tipped towards racial group particularism, stopping short, however, of granting special group rights to immigrants, US-style. Why did racial group particularism become stronger over time?

First, British nationhood had always comprised various ethnicities, with no intention of melting them. Nor had the British empire attempted to assimilate its colonial subjects. When the latter moved from the periphery to the centre of empire, it was not presumed that they would become 'British' or 'English' in any way. On conservative reading, assimilation was not possible. In Enoch Powell's malicious words, 'the West Indian or Indian does not, by being born in England, become an Englishman. In law he becomes a United Kingdom citizen by birth; in fact he is still a West Indian or an Asian still' (quoted in Paul 1997, p. 178). In liberal reading, assimilation was not required. The mid-1960s Secretary of State for the Home Department, the Rt. Hon. Roy Jenkins, famously abdicated the 'melting pot', defining integration 'not as a flattening process of assimilation but as equal opportunity, accompanied by cultural diversity, in an atmosphere of mutual tolerance' (quoted in Banton 1985, p. 71). Both conservative and liberal positions are not as diametrically opposed as they seem; they are based on the same premise of keeping immigrants and domestic society apart. However, the liberal variant of group particularism eventually won the day over its parochial competitor. An élite crafted, official multiculturalism became Britain's integrative solution to its New Commonwealth immigration.

While a disposition for it had always been there, racial group particularism shifted to high gear in the early 1980s, under the influence of radical race activists who sought to realize the American black power model at the level of local government (see Ball and Solomos 1990).

When the race unrest in Brixton and elsewhere threw the problem of integrating anomic second-generation immigrants into sharp relief, even the central government went over to target explicit 'minorities' for remedial measures.<sup>25</sup> However, the adoption of US-style 'minority' discourse did not mean granting the minorities affirmative-action privileges. Paradoxically, the treatment of American blacks – the major *non*-immigrant minority in the US – had always been the reference point for British race relations law and institutions. But, from the start, there was a strong awareness of the one difference between American blacks and British 'coloured' immigrants: the latter had come voluntarily. Accordingly, E.J.B. Rose's (1969, p. 4) classic survey of New Commonwealth immigration responded with a resounding 'No' to the question of a possible 'British dilemma' similar to the 'American dilemma' of race. Unburdened by a legacy of domestic apartheid, Britain has firmly stood back from granting special group rights to their 'coloured' immigrants.

The recognition of 'indirect discrimination' in the 1976 Race Relations Act nevertheless created a space for the language of group rights and for the result-oriented logic of achieving statistical parity between the races. Nominally, the Act allows only certain 'exceptions' from the principle of strict non-discrimination, which became known as 'positive action' (see CRE 1989). For example, permitting employers to provide special job training for their underrepresented minority employees; or placing special job advertisements in the minority press. Such positive action is permissive rather than mandatory, and in the all-important field of employment some (reverse) discrimination may occur preceding to, but never at the point of selection or promotion. However, some local authorities pushed positive towards affirmative action. For instance, London's Camden Council issued their new employment policy in January 1978: 'If two people of equal ability but of different colour apply for a job, we will pick the coloured person because coloured people are so underrepresented at the moment' (quoted in Lustgarten 1980, p. 26). This was plainly outside the 1976 Race Relations Act, and constituted unlawful discrimination. But under the strange name of 'equal opportunity policy',<sup>26</sup> it became widespread practice nevertheless, particularly in local Labour councils committed to 'anti-racism'. The Commission for Racial Equality [CRE], having succeeded in committing all levels of government and large private employers to 'monitor' the ethnic and racial composition of their workers and employees, is now pressing for the half-step from positive to affirmative action. A model for this already exists: the Fair Employment (Northern Ireland) Act of 1989 requires employers to monitor their workforce by religion and to achieve statistical parity between Protestants and Catholics in the workforce. As the CRE put it, 'we believe that the kinds of obligations placed on employers to avoid discrimination on the ground of religion should be matched here by equivalent provisions on race'.<sup>27</sup> The prospects for a race

relations act revised along these lines are weak.<sup>28</sup> After all, there has been no war between the races that might force the British government to the extraordinary measure that the Northern Ireland Act surely is. But the sheer logic of recognizing indirect discrimination has drawn John Bull a bit into the orbit of Jim Crow.

Britain's gradual move from citizenship universalism to racial group particularism has not stood in the way of successful immigrant integration. A good indicator of this is the negative attitude towards the emergent European Union [EU], which is shared by Britain's élites and immigrant minorities alike.<sup>29</sup> Consider the travel notes from Europe by a British Muslim activist: 'I realized that however bad things were in Britain for Muslims, they are much, much worse in Europe . . . I returned to Britain, happy to be home, and happy to be British.'<sup>30</sup> If confronted with the lesser tolerance for minority identities and the weaker anti-discrimination provisions in the other member states of the EU, even hardened race activists switch to a triumphalist reading of the British race relations framework. Herman Ouseley, the former anti-racist from Brent and current chair of the CRE, is now proud of 'the best anti-discrimination legislation in Europe', and he salutes the black and Asian people who 'fly the Union flag with pride to positively demonstrate their Britishness'.<sup>31</sup>

## Conclusion

Looking at the three cases combined, we see an extreme variety of immigration-citizenship linkages that are amenable to local, but not to case-transcending, general explanation. However, these local explanations still cast doubt on some general claims of recent citizenship theories, especially citizenship traditionalism and membership postnationalism. Great Britain and the United States never had strong concepts of national citizenship to exert closure functions. By the same token, both states do not have postnational membership to replace or relativize outworn national citizenship. Britain even used the immigration challenge to create what it had not had so far, national citizenship. Both theories have a certain relevance for the German case, but in ways not reconcilable with their own assumptions. Citizenship traditionalism and postnational membership have coexisted there for a while, one conditioning the other, instead of being in a relationship of partial substitution as predicted by postnational membership theory. And the content of persisting national citizenship has not remained stable over time, as predicted by citizenship traditionalists, but has undergone a change, from ethno-genealogical to civic-territorial.

The German case thus carries a double message for citizenship theory. First, citizenship in liberal states is malleable. States are not slaves of their 'cultural idioms' (Brubaker) of nationhood, but may devise flexible



citizenship policies in response to immigration pressures. This flexibility is demonstrated also by Britain, which imported the altogether foreign *jus sanguinis* tradition of Continental Europe in order to shield itself from unwanted immigration. Secondly, national citizenship remains indispensable for immigrant integration. Postnational membership is an asset for first-generation immigrants; it helps them to maintain the illusion of returning home one day. It becomes a liability for second- and third-generation immigrants, whose home is the receiving society, but whose lasting exclusion from its national community makes them vulnerable and stigmatized minorities. In Germany, this message was brought home by President Weizsäcker's commemoration of two 'Turkish' girls and their mother murdered by arsonists in the city of Mölln. 'Think of ten-year-old Yeliz Asslan. She was born among us and had never lived anywhere else. In our press, however, we read only about "three Turks"'.<sup>32</sup>

Beyond the three cases considered here, the overwhelming trend in Western immigrant-receiving states is towards liberalized citizenship regimes. Beginning with the United States in 1952, the transoceanic settler nations have removed all racially motivated restrictions on admission for residence and citizenship. Even at the height of anti-immigrant sentiment in the 1990s, various attempts by conservative Republicans in the US Congress to abolish *jus soli* citizenship for the children of illegal immigrants have come to nothing. In Western Europe, some observers have stated a 'convergence' of citizenship policies: formerly expansive citizenship regimes were tightened, while formerly restrictive citizenship regimes were liberalized (see Cinar 1994; Feldblum 1998; Hansen 1998). This diagnosis of convergence exaggerates the restrictive trend. France and Britain, which are commonly cited as examples of restriction, require special explanation.<sup>33</sup> Besieged by right-wing populism, a Gaullist prime minister in 1993 removed automatic citizenship for second-generation immigrants at majority age, making the granting of citizenship contingent on the expressed will of the immigrant. However, a Socialist prime minister put the old scheme back into place in 1997. Most importantly, *jus soli* citizenship for third-generation immigrants was never put into question in France. Britain, too, cannot be pressed into a general trend towards restriction. Its extreme *jus soli* regime, which goes back to feudal times, had always been a curious outlier in a Europe of nation-states, which had switched from *jus soli* to *jus sanguinis* in the nineteenth century. Not plagued by the problem of integrating non-citizen immigrants, and eager to overcome its anomalous lack of a meaningful concept of citizenship, Britain simply caught up with the European norm of *jus sanguinis* citizenship enriched by elements of *jus soli*.

With the exception of these sprinkles of restrictionism, the general trend in Western Europe is towards liberalized citizenship regimes, thus partially reversing a two-hundred-year tradition of increasingly

'ethnicized' citizenship in Europe.<sup>34</sup> Apart from Greece, Luxembourg and Austria, all member states of the EU now provide the right of citizenship to second-generation immigrants, attributed either at birth or available at majority age (Hansen 1998, p. 14). Mostly instituted to help integrate long-settled and later-generation labour migrants, the right to citizenship contradicts one of the core prerogatives of sovereign states: the right of states to grant or withhold citizenship from aliens, and – under democratic conditions – the self-determination right of national communities.<sup>35</sup> Most importantly, the right of citizenship factually renders invalid assimilation to the majority culture as a condition for citizenship, at least for second-generation immigrants. As in the German case, assimilation is no longer examined case by case, but is simply deduced from length of residence. This makes the German (and the other West European) naturalization regimes even more liberal than the American regime, which still requires its applicants to citizenship to be 'assimilated' in terms of being able to speak English, knowing American history and culture, and renouncing allegiance to the previous country of citizenship.<sup>36</sup> There is a second aspect in which most European citizenship regimes have become more liberal than the American one: dual citizenship is increasingly tolerated, even officially.<sup>37</sup> Again with an eye on integrating their immigrant populations, the great majority of EU member states accepts dual citizenship today.<sup>38</sup> Out of the signatories of the 1963 Council of Europe Convention on the Reduction of Cases of Multiple Nationality, only Austria, Germany, Sweden and Luxembourg still cling to the imperative of avoiding dual citizenship – with the caveat that immigrant-receiving Sweden and Germany have been increasingly tolerant of dual citizenship in administrative practice (Cinar 1994, p. 3). However, these dual citizenship laggards will no longer be able to hide behind the ancient Strasbourg Convention. The proposed new nationality convention of the Council of Europe, presented in November 1997, abandons its previous view of multiple nationality as being intrinsically undesirable, and supports dual citizenship in the interest of better immigrant integration (see Hansen 1998, p. 19).

The diagnosis of liberalized citizenship laws and policies in Europe adds an important dimension to Kymlicka's empirico-normative analysis of multicultural citizenship, which had looked only at the internal rights, not the external closure dimension of citizenship. But even the closure dimension has taken on multicultural features. At least for Europe's second-generation immigrants, assimilation is no longer a prerequisite of citizenship acquisition; in this sense, their citizenship is multicultural citizenship. The rejection of liberal states to assimilate immigrants, in important respects even at the point of acquiring citizenship, is perhaps the one common element in the diverse immigration-citizenship trajectories depicted in this article. The multiculturalism of liberal states comes in nationally distinct versions: as compensation for historical oppression

in the US, liberal laissez-fair in Britain, and postnational alternative to a historically discredited nation-state in Germany (see Joppke 1996). However, with the one exception of the United States, where Third-World immigrants came to profit indirectly from the civil rights gains of America's descendants of black slaves, liberal states have not granted special group rights to their immigrants, adhering instead to the individual rights principle of non-discrimination.<sup>39</sup> Britain, which otherwise had always looked to the United States to find clues for its 'race relations', is a good example of this. While liberal states do not require immigrants to give up their indigenous cultures, they do not proactively protect these cultures. Unless obliged to redress historical wrongs against certain groups, why should they? This may meet the objection that even liberal states are not culturally neutral, but one huge 'group right' arrangement for the majority culture.<sup>40</sup> But such is the nature of nation-states, even in the age of multiculturalism.

## Notes

1. See the excellent survey by Kymlicka and Norman (1994).
2. There is a systematic ambiguity about the role of formal state membership in Soysal's model of 'postnational membership'. In some places, she cites dual citizenship or European Union citizenship as examples of postnational membership. However, the main thrust of her study *Limits to Citizenship* is to show that European guestworkers acquired full civil and social rights without having acquired formal state membership (i.e., 'citizenship'). If dual citizenship also is postnational membership, the latter shrinks from an institution to an attitude (about which not much can be known). In this article, I therefore use 'postnational membership' in its narrower, original meaning of non-citizenship membership.
3. See chapters 7 and 8 of Brubaker (1992), whose purpose is to show the continuity of the traditional German and French citizenship models in the present time.
4. According to Kymlicka, people need not just any culture but 'societal culture' to be free. Societal cultures are defined by territory and language, and thus 'tend to be national cultures' (Kymlicka 1995, p. 80). This is a defence of bounded membership, whose paradigmatic case in modern states is national citizenship. The assumption that people need one homogeneous culture to be free has been incisively criticized by Waldron (1992).
5. One should mention, of course, that Brubaker looks at citizenship from the angle of closure, while Kymlicka looks at it from the angle of rights. However, Kymlicka's analysis of increasingly multicultural citizenship at least suggests that the closure function of citizenship cannot remain untouched by the tolerance for cultural pluralism: for instance, in the sense that cultural assimilation is no longer a prerequisite for acquiring citizenship (at least for certain groups). I adduce some empirical evidence for this in the conclusion.
6. The stability of US legal citizenship is also procedurally guaranteed: citizenship by birth on territory enjoys constitutional status; statutory naturalization law is generally not touched by politicians, who are accountable to an electorate of immigrant origins.
7. An astonishing deviation from the American individual rights tradition, the shift from equal opportunity to equal result occurred above all in the arcane arena of implementing the civil rights laws. The agencies charged with implementing the civil rights laws found it time-consuming and cumbersome to demonstrate the actual intent of discrimination in individual cases. As John Skrentny (1996) showed in the case of the Equal Employment Opportunity Commission, no conscious pressure by civil rights groups, but the sheer difficulties of implementation pushed regulatory agencies into the statistical

result-oriented direction, which released them from the difficult task of proving discriminatory intent. This shift was sanctioned in the Supreme Court rule *Griggs v. Duke Power Company* (1971). After *Griggs*, the lack of parity between a minority group's population share and its representation in the employed workforce, higher education, or the political system was seen as an indication of 'institutional' discrimination, and the mandate was to recruit, admit, or elect members of this group preferentially until statistical parity was reached.

8. See LaNoue and Sullivan's (1994) instructive case-study on the Small Business Administration's chaotic, unprincipled decision-making on who qualified as 'minority' entitled to 'minority set-asides'.

9. According to post-1960s census categories, 'Hispanics' can be 'of any race', and they are counted through the ethnicity-related 'Hispanic origin' question. This is an inconsistency that various Hispanic organizations have sought to redress, in the direction of achieving racial group status. Whatever the labelling, Hispanics are considered one of the 'big four' minority groups endowed with special group rights.

10. '(T)he pan-Asian concept was first coined by young Asian American activists on college campuses, (and) was subsequently institutionalized (within the settings of) electoral politics, social service funding, and census classification' (Espiritu 1992, p. 18).

11. This is also an academic exercise, as in Takaki (1993).

12. In response to the tragic killing in 1982 of Vincent Chin, a Chinese American who was mistaken by his two white killers for a Japanese, Asian American civil rights groups have tried to unravel a societal groundswell of Anti-Asian violence, and they have lobbied for a Hate Crime Statistics Act (see Espiritu 1992, ch. 6).

13. A repeated exercise in Asian American scholarship is to destroy the 'insidious "model minority" stereotype' (Wei 1992, p. 49). This is done in two directions: pointing to the huge gap in income and education between, for example, Hmong refugees and fourth-generation Japanese immigrants; and rendering visible the 'glass ceiling' that is said to prevent the Asian élite from acquiring top positions in the corporate world. After his rejection of the 'model minority' image, Bill Ong Hing (1994, p. 11) mentions some countervailing facts: in 1990 Asians constituted 19 per cent of the freshman cohort at Harvard, 20 per cent at MIT, and 25 per cent at Berkeley (while their population share is only 2.9 per cent); and the 1990 median annual income of \$42,250 for Asian American households exceeded that of \$36,920 for the white population.

14. On the academic side, see Schlesinger (1992), Hollinger (1995), and Salins (1997).

15. See 'American Latinos', in *The Economist*, 25 April 1998, pp. 23–29.

16. Quoted in *Migration News*, vol. 4, no. 10, October 1997.

17. Already the 1990 Foreigner Law had introduced 'as a general rule' naturalization, for first-generation immigrants with at least fifteen years of residence, and for second- and third-generation immigrants who had stayed at least eight years in the Federal Republic. In addition, the new Foreigner Law had lowered the previously prohibitive costs of naturalization to a symbolic lump sum of DM 100, and granted exceptions to the previously strict prohibition of double citizenship. The transformation from 'as a general rule' to 'as of right' naturalization occurred as part of the so-called Asylum Compromise of December 1992 between the Liberal-Conservative government and the Social Democratic opposition in parliament.

18. Regarding state discretion, the Naturalization Rules of 1977 stipulated that 'the granting of German citizenship can only be considered if there is a public interest in (it) . . . The personal wishes and economic interests of the applicant cannot be decisive'. Regarding assimilation, the Rules make naturalization contingent upon the applicant's 'free and permanent orientation (*Hinwendung*) to Germany'. Under this harsh naturalization regime, Germany had the lowest naturalization rate in the Western world.

19. Erwin Marschewski, one of the CDU's leading opponents of citizenship reform, reiterates the orthodox view:

Granting citizenship cannot be an instrument of integrating foreign residents. Instead, naturalization requires that the integration of the respective foreigner has already occurred. A foreigner who wants to acquire German citizenship must commit himself to our national community. Tolerating double citizenship would lead to the formation of permanent national minorities (quoted from *Information Sheet of the CDU/CSU Bundestagsfraktion* 10/93, 30 April 1993, p.9).

Citizenship as the end-point, rather than a means, of integration, and the imperative not to divide one's loyalties between two national communities: these are the thin residuals of ethnocultural nationhood today.

20. 'Gerster schlägt neues Modell für Staatsbürgerschaft vor,' *Frankfurter Allgemeine Zeitung*, 19 December 1994, p. 1.
21. 'Streit über Staatsbürgerschaft', *Frankfurter Allgemeine Zeitung*, 9 May 1997, p. 8.
22. 'Schiefe Bahn', *Der Spiegel*, no. 1, 1995, p. 25.
23. Horst Eylmann, 'Es gibt keine nationale Blutgruppe', *Die Zeit*, 18 April 1997, p. 8.
24. See *Parliamentary Debates*, House of Commons, 12 March 1979, v. 964.
25. The key document is the Scarman Report (1981), which was commissioned by the government to investigate the causes of the Brixton riots and to propose remedial policies.
26. In American parlance, 'equal opportunity' figured as the colour-blind alternative to the colour-conscious 'equal result' principle in civil rights law and policy; in British parlance, 'equal opportunity' became a code-word for pushing towards the 'equal result' principle, that is, affirmative action.
27. CRE, *Annual Report 1989*, p. 9.
28. Having refused to respond to the CRE's first review of the Race Relations Act in the late 1980s, the Conservative government finally responded to the second review, two years after its publication, and negatively. All CRE proposals, including strengthening the Commission's investigative powers and tightening the screw of anti-discrimination and equal opportunity measures, were rejected as too expensive, impractical, or inappropriate. Defending this affront to the CRE, Home Secretary Michael Howard reaffirmed the non-legal, conciliatory approach that has always characterized British race relations: 'Good race relations is not just about legislation to penalize those who transgress. It is as much about promotion, advice, information, help and education. Measures that build confidence, trust, and mutual understanding' ('Fast-track route to tackle racism', *The Independent*, 5 July 1994, p. 2).
29. For hard statistical evidence of successful immigrant integration in Britain, see Modood *et al.* (1997).
30. Humera Khan, 'Muslims, Be Careful of Europe,' *Q-News* (London), 14–20 July 1995, p. 6.
31. 'Introduction by the Chairman', *Annual Report 1993* (London: CRE), p. 6.
32. 'Germans Planning to Make it Easier for Some to Become Citizens,' *New York Times*, 25 January 1993, p. A4.
33. As do the South-European countries (Italy, Greece and Portugal), which (somewhat) increased the residence requirements for naturalization in the early 1990s (Hansen 1998, p. 12). Until very recently, these emigration-turned-immigration countries had very lax immigration and citizenship policies, and they are now being bullied by the EU to shore up the latter's external borders.
34. As Mathias Bös (1993) has shown, the external closure of state membership along ethnic lines was a complementary development to the internal universalization of rights.
35. See Michael Walzer's empirico-normative statement that the distribution of membership is related to elementary national self-determination, and thus not subject to considerations of justice:

The distribution of membership is not pervasively subject to the constraints of justice . . . Admission and exclusion are at the core of communal independence. They suggest the

deepest meaning of self-determination. Without them, there could not be *communities of character*, historically stable, ongoing associations of men and women with some special commitment to one another and some special sense of their common life (Walzer 1983, pp. 61f).

However, he cites two exceptions: refugees and people who can claim a 'right of place'. Second-generation immigrants would fall under the latter category. It must be noted that, in Western Europe at least, the second-generation immigrant's right to citizenship is statutory, not constitutional, and thus reversible through simple legislation.

36. However, if these (minimal) assimilation conditions are fulfilled, citizenship is the right of the applicant (after five years of legal residence). As suggested earlier, America's mildly assimilationist naturalization regime is perhaps an antidote to its liberal granting of birthright citizenship to second-generation immigrants, which dispenses with the European problem of making the latter citizens through naturalization.

37. To be sure, the US prohibits dual citizenship in theory, but (until now at least) tolerates it in practice. The US does not check whether applicants for citizenship have actually divested themselves of the old citizenship.

38. In 1992, Italy, The Netherlands (and Switzerland, a non-EU state) moved away from the principle of avoiding dual citizenship.

39. See Hartmut Albers' (1994) instructive analysis of three parallel court rules, passed between 1989 and 1993 in different European states, all of which defend certain exemptions of young Muslim girls from some public school requirements on the basis of the non-discrimination principle.

40. This case is eloquently made by Kymlicka (1995, p. 108). However, he quickly adds that voluntary immigrants cannot do much about it.

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