Citizenship and Security

The constitution of political being

Edited by Xavier Guillaume and Jef Huysmans

CITIZENSHIP AND SECURITY

This book engages the intense relationship between citizenship and security in modern politics. It focuses on questions of citizenship in security analysis in order to critically evaluate how political being is, and can be, constituted in relation to securitizing practices.

In light of contemporary issues and events such as human rights regimes, terrorism, identity control, commercialization of security, diaspora, and border policies, this book addresses a citizenship deficit in security studies. The chapters introduce several key political themes that characterize the interplays between citizenship and security: changes in citizenship regimes, the renewed insecurity of citizenship–state relations, the emerging ways by which the political and national communities are crafted, and the ways democratic societies and regimes react in times of insecurity. Approaching citizenship as both a governmental practice and a resource of political contestation, the book aims to highlight what political challenges and contestations are created in situations where security intensely meets citizenship today.

Citizenship and Security will be of interest to scholars of security studies and security politics, citizenship studies, and international relations.

Xavier Guillaume is Lecturer in International Relations at the University of Edinburgh, UK.

Jef Huysmans is Professor of Security Studies in the Department of Politics and International Studies (POLIS) at the Open University in Milton Keynes, UK.

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CONTRIBUTORS

Sandrine Bertaux is a Lecturer in the Department of Political Science and International Relations at Marmara University, Istanbul, and a fellow in the Culturalization of Citizenship programme at the University of Amsterdam. Her work focuses on population knowledge and politics in twentieth-century Europe.

Fırat Bozçalı is a PhD candidate in the Department of Anthropology at Stanford University, CA. He has research interests in political and legal anthropology, political economy, border studies, and Kurdish politics in Turkey and Iraq.

Flora Burchianti is a Postdoctoral Researcher at the *Interdisciplinary research group on migration* (GRITIM), Universitat Pompeu Fabra, Barcelona, and currently participates in the European project ACCEPT PLURALISM. Her research interests include the politics of immigration, spatial identifications, local protest, and social movements.

Angharad Closs Stephens is Lecturer in Human Geography at Durham University. She is the author of *The Persistence of Nationalism: From imagined communities to urban encounters* (Routledge, 2013) and was guest editor of a special issue of *Environment and Planning D: Society and Space* (2012, vol. 30) on the theme of 'Citizenship without Community'.

Matteo Gianni is Associate Professor in Political Theory in the Department of Political Science at the University of Geneva. He is a founding member of the Group of Researchers on Islam in Switzerland (GRIS) and has (co)directed several research projects about the immigration and integration of Muslims into Switzerland.

Xavier Guillaume is Lecturer in International Relations in the Department of Politics and International Relations at the University of Edinburgh. He specializes in international political and social theory, with a focus on problématiques pertaining to the identity/alterity and citizenship/security nexuses. His most recent publications include his first monograph, *International Relations and Identity: A dialogical approach* (Routledge, 2011).

Jef Huysmans is Professor of Security Studies in the Department of Politics and International Studies (POLIS) at the Open University, Milton Keynes. He has published widely on security theory, the securitization of migration, asylum and refugees, and international political theory. He is author of *The Politics of Insecurity: Fear, migration and asylum in the EU* (Routledge, 2006) and *What is Politics?* (Edinburgh University Press, 2005).

Engin F. Isin holds a Chair in Citizenship and Professor of Politics in Politics and International Studies (POLIS) at the Faculty of Social Sciences, the Open University, Milton Keynes. He is the author of *Cities Without Citizens* (Black Rose Books, 1992), *Being Political* (University of Minnesota Press, 2002) and *Citizens Without Frontiers* (Bloomsbury Academic, 2012). He has also edited (with Greg Nielsen) *Acts of Citizenship* (Zed, 2008).

Ákos Kopper is a Postdoctoral Researcher at Kanagawa University supported by JSPS. His research focuses on borders, citizenship and governmentality. His latest publications include the articles: 'The oppressive totality of the past', in *Alternatives, Global, Local, Political*; and 'The imaginary of borders: From a coloring book to Cézanne's paintings', in *International Political Sociology*.

Anna Leander is a Professor in the Department of Management Politics and Philosophy at the Copenhagen Business School. Her research focuses on sociological approaches to international relations and on the commercialization of military practices. For more information see www.cbs.dk/staff/ale.

Yagil Levy is an Associate Professor in the Department of Sociology, Political Science and Communication at the Open University of Israel. Levy is the author of six books, most recent are *Israel's Materialist Militarism* (Lexington Books, 2007) and *Israel's Death Hierarchy* (New York University Press, 2012).

Peter Nyers is Associate Professor of the Politics of Citizenship and Intercultural Relations in the Department of Political Science at McMaster University, Ontario. He recently co-edited (with Kim Rygiel) the volume, *Citizenship, Migrant Activism and the Politics of Movement* (Routledge, 2012).

Francesco Ragazzi is Assistant Professor of International Relations at Leiden University, the Netherlands, and Associate Scholar at CERI – Sciences Po, France. His

research interests include critical approaches to security, diaspora politics, migration, and citizenship.

Antje Wiener holds the Chair of Political Science especially Global Governance at the University of Hamburg, Germany. Her research specializes in the area of international relations theories, global governance, and global constitutionalism with a special focus on soft institutions, norms research, and contestation research. Her recent publications include *A Political Theory of the European Union* (Oxford University Press, 2009, with J. Neyer), *The Invisible Constitution of Politics: Contested norms and international encounters* (Cambridge University Press, 2008), and *'European' Citizenship Practice: Building institutions of a non-state* (Westview Press, 1998, 1999).

1

INTRODUCTION

Citizenship and security[1]

Xavier Guillaume and Jef Huysmans

To date, security studies has not been greatly interested in citizenship. Referring to conventional security studies, Linklater observed: 'Conventional security studies is concerned with how states interact with one another, not with the ways they treat their national citizens' (Linklater 2005: 118). Although critical – or new – security studies (Krause and Williams 1997; Buzan and Hansen 2009) have widened the focus from states to individuals, groups, humanity, the environment, and the social, among others, they too have not really shown much interest in citizenship. They have focused on exploring the social and political processes that render issues into security questions, and the governmental rationales that security practice inscribes in phenomena. Their double lead question has been: how does securitizing take place, and what is the 'securitiness' of securitization? Citizenship is rarely explicitly at the heart of these analyses.

This citizenship deficit in security studies has become somewhat untenable, however. The widening of security explicitly shows the limits of the idea that security practice is a strategic inter-state relation concerned with the finer details of military deployment and its consequences. Whether one thinks peace building operations, the securitization of cross-border movements, the concern with ethnic conflict and terrorism, or demands for a sustainable environment should be treated as a security issue, security practices and studies work very immediately on key terrains central to citizenship. These include state and nation building through instituting social, political and civil rights and other techniques of crafting the membership of a political community; citizenship education; naturalization of immigrants; and post-national rights regimes. Although we believe that there is a renewed intensity in how political being is negotiated, constituted and enacted at the interstices between citizenship and security, neither this nexus nor the intensity of its interplays are historically unique. Security and citizenship have been closely connected in modern politics, as we will indicate below. Securing citizens and

citizens demanding security has been one of the organizing dynamics of modern states and politics more generally (Hobbes 1996 [1651]).

The importance of interstices between citizenship and security in modern politics both generally, and in its current intensity, make the citizenship deficit in security studies not only surprising, but also an issue of concern. This is particularly so for those seeking a more political than strategic analysis of security practice. This book seeks to contribute to the formulation of a political analytics of securitizing by foregrounding the relation between citizenship and security as a key question for security studies. More specifically, it brings together a set of chapters that interrogate several key political themes and developments characterizing the variety of interstices that can be identified in the interplays between citizenship and security. The starting point of the book is that both security and citizenship practices are simultaneously a governmental practice securing the status of citizens and the authority of political apparatuses, and a resource of counter-practices contesting the effects of securitizing. Through citizenship, conceptions of security and their effects become politically negotiated and contested. By bringing citizenship questions to bear upon security analysis the book aims to develop an agenda that critically interrogates how political being is, and can be, constituted in relation to securitizing practices.

Co-naming of security and citizenship

While the almost symbiotic link between security and citizenship can be dated at least as far back as the first articulations of the idea of government, the interstitial relation (see Huysmans and Guillaume in this volume) between security and citizenship in the modern constitution of political beings is strikingly laid out in the *Declaration of the Rights of Man and the Citizen* (1789). In the *Déclaration*, not only is security (*sûreté*) presented in article 2 as one of the central rights, but it is placed alongside resistance to oppression: 'The aim of all political association is the preservation of the natural and imprescriptible rights of man. These rights are liberty, property, security, and resistance to oppression' (National Assembly of France 1789a).

In the *Déclaration*, though apparently set on an equal footing, the logic of government nonetheless already presides over the logic of resistance. This is illustrated by one of the debates that followed the decision by the French National Assembly (27 July 1789) to endorse the *Déclaration* – a decision which was, in part, an attempt to stem the revolt on the streets. Boniface de Castellane defended the decision by putting forth one of the key arguments to reassure those who feared that a universal declaration of rights would lead to more unrest; the *Déclaration*, he argued, would actually bring citizens together in the defence of their rights against 'vagabonds' that threaten public security:

> The more men will know their rights, the more they will love the laws protecting them, the more they will cherish their homeland, the more they will

> fear trouble; and if the vagabonds compromise public security (sûreté publique), all citizens that have something to lose will unite against them.
>
> *(National Assembly of France 1789b, our translation)*

Here, a complex set of issues connects security to the rights of men and citizens. Clearly security is a citizenship right, yet at the same time security presides over citizenship. It is because the government protects citizens by imposing a certain order that they can enjoy their rights. The key assumption is that because the government sets the rules (laws) by which citizens govern themselves and their relations with others, citizens can fulfil their natural rights. 'Natural rights', however, do not mean unruly freedom, nor do they mean the absence of authority. Government, and with modernity, the state, is the necessary condition for the fulfilment of promises of emancipation because a political being is primarily a vertical being, linked to an authority that has the ability and power to institute the frameworks within which natural rights can be expressed, enjoyed and fulfilled. Thomas Paine, in his reply to Burke's critique of the French Revolution, said the same when referring to a man's civil rights, rights that made him a political being:

> Natural rights are those which appertain to man in right of his existence. Of this kind are all the intellectual rights, or rights of the mind, and also all those rights of acting as an individual for his own comfort and happiness, which are not injurious to the natural rights of others. Civil rights are those which appertain to man in right of his being a member of society. Every civil right has for its foundation some natural right pre-existing in the individual, but to the enjoyment of which his individual power is not, in all cases, sufficiently competent. Of this kind are all those which relate to security and protection.
>
> *(Paine 2010 [1791])*

About a century and a half later, the Universal Declaration of Human Rights (1948) formulated security of person as a fundamental right in article 3: 'Everyone has the right to life, liberty and security of person'. The question is, then, what does this right entail? Is it a right to protection by the state, or a right to be saved from oppression, including from the state? Balibar in *Droit de cité* distinguishes *sûreté* (implying the latter) from *sécurité* (implying the former) (Balibar 2002). Does security refer here to 'security of person', to social security and/or to national security?

Declaring security as a right of citizens, and humanity more generally, opens up various ways in which security is connected to citizenship, implying tensions that require negotiation. For Balibar, for example, the right to security can never be simply a right to be protected by the state, but necessarily includes a right to be saved from oppression. In arguing this, he relates the right to security with the right to resistance. For Boniface de Castellane it is not the right to security itself that is crucial but the fact that citizens, by sharing the same rights, will unite in their

defence and, by implication, defend the nation against groups that threaten their rights and public order. Citizenship and security work together to separate those with the right to security from those who are excluded from it – the former by granting and denying rights, the latter by separating the citizenry from those seen as endangering the rights of men and citizens. These interplays have been at work in multiple ways in modern times. To take a central illustration, in the development of social citizenship similar distinctions have been drawn between a citizenry which holds rights, and an underclass which does not or, at the very least, which is partly excluded from the social rights of citizens. In Victorian times this underclass was referred to as the 'dangerous class', a concept that is currently re-mobilized in relation to precarious groups (Morris 1994; Standing 2011).

Political organizations often combine assertions of rights and justice for citizens with declarations of protection for citizens from those seeking to challenge, undermine, or disrupt the delivery of rights. For example, the Stockholm Programme of the European Union, which sets out guidelines for legislative and operational planning within the areas of freedom, security and justice, similarly combines the assertion of citizens' rights and freedoms with the obligation to secure them. The interplay is apparent from the start, in article 1.1, Political Priorities:

> The European Council considers that the priority for the coming years will be to focus on the interests and needs of citizens. The challenge will be to ensure respect for fundamental rights and freedoms and integrity of the person while guaranteeing security in Europe. It is of paramount importance that law enforcement measures, on the one hand, and measures to safeguard individual rights, the rule of law and international protection rules, on the other, go hand in hand in the same direction and are mutually reinforced.
>
> *(The Stockholm Programme 2010: C115/4)*

While in the past security and citizenship were essentially linked through territorialized political units – the state, or state-like organizations – they are increasingly defining global governmental regimes, reflecting how citizenship is governed through the internationalization and transnationalization of rights, but also through the inter- and transnationalization of security practices such as sharing intelligence and standardizing border controls (Rygiel 2008). At issue is not simply the exclusions that security institutes on the basis of race, gender or behavioural patterns – among others – but also, and in particular, a more general shift from citizenship as the enactment of rights claims, to the constitution of citizens as 'low-risk individuals', authenticated through security identification techniques. In an era when post-national citizenship is supposedly taking over more territorialized (and therefore statist) and parochial conceptions of citizenship, the latter are actually being reworked in transnationalizing and internationalizing techniques governing insecurities, such as the international organization of detention centres and the regulation of border controls across states, thus affirming the primacy of securitizing over citizenship (Rygiel 2008).

Understanding the complex linkages between citizenship and security currently has an urgency stemming from the fact that political being is negotiated, formed and transfigured at its interstices. As our starting point in 1789 illustrates, this is not new, but we do think that citizenship studies' increasing interest in the securitization of citizenship and how political being is intensely enacted and transformed does not simply indicate an academic fad. Rygiel, together with Nyers and others, are right to highlight how citizenship is currently and significantly governed through security practice, as it has been at other moments in the past.

Security reactions to suicide bombings in metropoles since 2001 have greatly contributed to foregrounding the securitizing of citizenship, particularly in North America and Europe. Much has been written about how counter-terrorism has challenged fundamental rights and freedoms. Yet, the war on terror has also instrumentalized citizenship in its more specific sense of being a marker of identity and as a status granting its bearer protection and rights. As Rygiel argues, 'the war on terror is being fought to a large extent through citizenship policies and practices aimed at securing identity and it is being fought on two fronts: protecting and proving identity' (Rygiel 2006: 145–46). For example, Stasiulis and Ross looked at how, post 9/11, dual citizenship combined with particular nationalities has become a marker of unwanted citizens, resulting not only in the reduction of diplomatic protection but also, and more profoundly, human and citizenship rights (Stasiulis and Ross 2006). The highly controversial idea of the deprivation of citizenship, potentially leaving people stateless, has become an important item of legal and political debate in the European Union (Mantu and Guild 2012). In Peled's understanding, this securitizing of citizenship is part of a more general decline of democratic citizenship in contemporary Western societies:

> [T]he combination of neo-liberal economic policies, which have seriously undermined the welfare state as provider of social rights, and the global 'war on terror', which, in its various manifestations, has tarnished the protection of civil and political rights, is leading to the decline of democratic citizenship as a universalizing political institution *within* contemporary Western societies. Naturally, the results of this process are not distributed evenly throughout the society, but are detrimental especially to the wellbeing of the poor and of (allegedly) non-assimilating ethnic minorities.
>
> *(Peled 2007: 96)*

However, it is not just counter-terrorism practices which catapulted the citizenship–security nexus onto political and academic agendas. At least equally important have been the securitizations of migration and borders. Particularly in the context of the European Union, the United States of America, and Canada, much has been written about the governance of migration and borders as a security question and how this is tied in with citizenship in complex ways (Muller 2004; Salter 2007; Guild 2009; Nyers 2009). Citizenship emerges as a governmental instrument that is increasingly entangled with security imperatives, reinforcing exclusionary practices

of security policies. For example, on 29 November 2009, the Swiss population accepted by a large majority (almost 58 per cent in a poll that mobilized about 53 per cent of the electorate) a constitutional ban on the building of new minarets in Switzerland. This result acknowledges a securitizing move by the Swiss People's Party designating Muslim immigrants, and Muslims more generally, as a threat to Swiss society and democracy (see Gianni in this volume). In the European Union this connecting of security and migration, and its bearing on citizenship, goes back further than 2001 and is strongly connected to the abolishment of internal border control (Bigo 1996; Lahav 2004; Huysmans 2006).

On the other hand, citizenship is also seen as a political resource for migrants. Citizenship has historically included claims for extending rights to new groups and sustained demands for the right to have rights (Nyers 2006, 2011; Andrijasevic 2010). This tradition has been reinforced by the increasing intertwining of human and citizenship rights since the second half of the last century (Soysal 1994; Isin in this volume). Security is one of the sites in which these contradictions between claims to humanity and claims to citizenship – some of the defining contradictions of modern politics – are intensely engaged (Linklater 1990, 2005; Walker 2010). These contests go beyond migration. Debates around human security and humanitarian intervention and their relation to national security, for example, also define an intense terrain where the global formation and distribution of rights and political subjectivity – 'who is needy and who can take what action legitimately' – are negotiated.

Although identity control, rights deprivation, and migration and border policies define some of the most pertinent sites where security meets citizenship, they are not the only ones. For example, citizenship education has become hooked into security strategies once again. Citizenship education refers not simply to citizenship as part of the school curriculum, but more generally to the mobilization of pedagogical strategies including citizenship education in primary schools, public information campaigns, family and adult education, etc. According to Preston, '[P]edagogy and the idea of the pedagogical (that citizens can be taught to mobilize affects, conduct behaviors and operationalize cognitions) is central to citizen formation' (Preston 2009: 189). These pedagogies can connect in various ways to security issues, such as teaching what to do when encountering criminal acts, and how to avoid contact with potentially dangerous strangers. Of particular interest to security studies at the moment are the pedagogical strategies of preparing citizens for a nuclear war, prominent during the Cold War. Such pedagogies sought both to reassure citizens and to invest a disposition to practices that would enhance survival as well as political loyalty. More recently, similar pedagogical renditions of citizenship and security have developed in relation to the threat of terrorist attacks (Preston 2009). For example, Project Griffin, organized by the City of London Police, sought 'to advise and familiarize managers, security officers and employees of public and private sector organisations across the capital on security and counter-terrorism issues'. It organized 'awareness days' – and later 'refresher programmes' – in which specialist as well as local police officers would talk about issues including the nature of the threat posed by terrorism

and violent extremism, what hostile reconnaissance is, how to report, what to consider in the event of a terrorist incident, and how to deal with suspicious items. The purpose was to give participants 'increased confidence to report suspicious activity and behaviour' (City of London Police 2004).

Another example is that the increasing global use of military force by Western governments has resulted in a revived interest in citizenship as related to military service. Various aspects are involved. The introduction of universal military service was an important element – but not always as straightforwardly as sometimes assumed – in the creation of the nation-state (Krebs 2004). Joining the military can give privileged access to citizenship for immigrants (Ware 2012), question the link between self-sacrifice and the acquisition for oneself and one's family of a specific status (Burk 1995), or improve the position of certain groups within society (Levy in this volume). In the context of transformations in the welfare state, military service raises a tension regarding the differential guaranteeing of social rights. As Deborah Cowen writes:

> In a resurgence of classic liberal logics, soldiers are understood to be deserving of social rights as they serve the nation with their lives. Meanwhile, for civilians, entitlement has become a precarious affair, as obligation has come to govern their citizenship. Social entitlement has been reworked such that need has become stigmatized as dependency, and deeply shunned.
>
> *(Cowen 2008: 187–88)*

At first sight, the most pertinent question for security studies following from these examples concerns the securitizing of citizenship – the security processes and technologies that shape, constrain and instrumentalize citizenship (Nyers 2009; see also Leander; Bertaux and Bozçalı in this volume). Examples taken from the war on terror, migration and border policies, the militarization of citizenship – that is, how military service is connected to citizenship – and the insertion of security concerns into citizenship education, among others, are crucial sites illustrating and enabling us to understand this process. It is worth extending our endeavour, and it is the aim of this volume to do so, to questions of citizenship that are not contained by security. The securitizing of citizenship also creates moments and sites where people experiment with rights claims and enact themselves as political subjects in ways that disrupt securitizing processes and re-invent and re-position citizenship (Nyers 2006, 2008; Rygiel 2006). The possibility for citizenship to define political moments in a governmental process of securitizing citizenship goes back to a key element of modern politics, in particular as conceived by the Hobbesian tradition.

In Hobbes' proposition, the relation between citizens and violence is at the heart of the modern state. The state is grounded in a claim to protect citizens from violence against each other and from outsiders. For example, Alan Johnson, then UK Home Secretary, in the foreword to Annual Report 'The United Kingdom's Strategy for Countering International Terrorism' (2010) wrote: 'The primary duty of Government is the nation's security. This Annual Report clearly demonstrates

the Government's unwavering commitment to keep British citizens safe and secure and to protect the freedoms we all enjoy' (Secretary of State for the Home Department 2010). The flip side of this commitment is that the state monopolizes the *legitimate* use of violence and demands from citizens that they can be called upon to defend the state – to become soldier-citizens. As a result the state amasses a significant coercive apparatus, raising the question of how to ensure that the state will not turn its violence against its own citizens.

Insecurity does not belong to citizens alone, however. Citizens can challenge the state's monopoly over the legitimate use of force by mobilizing, non-violently as well as violently, against state institutions and persons ruling the capacity for coercive action. Thus, security as the control and exercise of violence has an uneasy relation with citizenship (Weber 2008). For example, on December 2010, events in Tunisia provoked a series of popular protests with different effects throughout the Arab world. These protests, not only in Tunisia, Egypt, Libya, Bahrain, Syria and Yemen, but also in Algeria, Iraq, Kuwait, Morocco, Oman and Jordan, shattered the orientalist presumption that the 'Arab masses' were idle and anomic. They also served as a reminder of the place people have in shaping their destiny, against security regimes that have for decades attempted to shape, control and enforce citizenship by excluding vast segments of their population from various rights – and political life more generally – on religious, economic, ethnic or gender grounds.

> What no commentator foresaw is the emergence of a movement of mass democratic resistance that is thoroughly modern in its understanding of politics and sometimes 'pious', but not fanatical [. . .] Just as followers of Martin Luther King were educated in the black churches in the American South and gained their spiritual strength from these communities, so the crowds in Tunis, Egypt and elsewhere draw upon Islamic traditions of Shahada – being a martyr and witness of God at once!
>
> *(Benhabib 2011)*

From the perspective of citizenship, modern politics thus contains a sharp tension between democratic and securitized citizenship. In democratic citizenship, rights to hold governments to account, and various other civil, political and social rights, prevail over the demand for obedience from citizens in the name of protecting them from violence. In securitized citizenship the latter prevails over the former (Rojas 2009). This book proposes to partly redirect the focus from this dichotomizing conception of the citizenship and security nexus, to foregrounding citizenship as a practice of negotiating, configuring, and enacting political being in securitizing moments and sites. This will open up securitizing to a political analysis that includes the disruptions and reconfigurations that the enactment of conceptions of citizenship can produce within securitizing processes. Citizenship turns from a purely governmental category sustaining securitizing and being subordinated to securitizing, to an ambivalent set of rights, duties and claims that can be mobilized in line with, as well as against, the securitizing of political being. Introducing this

conception of citizenship into security studies also avoids the latter implicitly reproducing the principle that demands for survival and for protection against existential dangers always trump other rights issues and political claims of justice, equality, solidarity and freedom. The modern political connection between citizenship and security is thus taken as being both governmental and political – hence our starting point, *The Declaration of the Rights of Man and the Citizen* in 1789, which lays the basis for a securitizing of citizenship by foregrounding the right to security but also connecting the right to security with a right of resistance to oppression.

Meeting grounds for security and citizenship studies

The contemporary actuality of the relation and the constitutive tensions between citizenship and security that lie at the heart of modern politics call for security studies and citizenship studies to meet. We are not alone in calling for this, but it is remarkable that while citizenship studies is exploring the connection, it has largely been neglected in security studies. Recent developments in security studies have offered a whole range of instruments for analysing how security practices constitute political identity, political authority, boundaries of communities, and relations of domination and subordination. However, its focus has been on how security discourses, practices, technologies and institutions – the security apparatus – craft political entities, subjectivities and rights claims through exclusions, dominations, subordinations, or incorporations. Much less work has gone into understanding that security apparatuses operate within sites and situations where political beings have the ability to contest, negotiate, struggle over, or twist these apparatuses and their governmental practice. Conceptions of the ability to transform or re-appropriate the security apparatus' capability to authorize political authority, delimit the boundaries of community, and stratify political subjects, have mostly entered security studies either as an afterthought – something that exists and needs to be researched, but is not really researched as such – or as a normative call for the need to recover the political agency of outsiders.

The contributions to this volume propose to address the relative silence surrounding the complexity and ambiguity of what is happening politically in securitizing sites and situations. They do this by engaging some of the key terrains in which the interstices between security and citizenship are formed, including borders, migration, nationalism in counter-terrorism, the commercialization of security, legal and constitutional practice, surveillance, diaspora, military service, mobilizing public opinion, and local government. More specifically, the book has chapters organized around four general themes:

1. *Changing regimes of citizenship*: changes in key distinctions that define citizenship, and their implications for how to understand the politics of insecurity.
2. *Insecure state–citizen relations*: how developments in security practice change the mediation of state–citizen relations, and how these changes create possibilities for disrupting securitization through the enactment of citizenship.

3. *Crafting of political community and nationalism*: the crafting of national political community at the interstices between citizenship and security, and the possibilities for the critical enactment of nationalism in securitized situations.
4. *Democracy in action in times of insecurity*: how democratic negotiations of political membership and interests draw on, and are involved in, securitization and security institutions.

Some chapters interrogate directly the link between securitizing practices and citizenship, whereas others have a limited emphasis on security but demonstrate how issues of citizenship are on the move, and therefore political being is in the process of being transfigured, in sites of security or around issues that are reproduced in security analysis and practice. Between them the contributions define a set of issues and practices through which both security and citizenship can be critically interrogated at their points of contact. It is important to note, however, that the book does not tackle the implications of citizenship's colonial past and its orientalist nature; it is steeped in a European tradition of thinking political being. It is therefore important to read each chapter in its own situatedness rather than as implicitly endorsing universalizing analyses of citizenship and security.

The book starts by introducing the idea of studying the 'interstices between security and citizenship'. Chapter 2 presents this as a method of exploring a wider spectrum of politics in critical security studies. The chapter develops the idea, touched upon earlier in this introduction, that citizenship is a fruitful concept for security studies because it is simultaneously an institution of domination and empowerment (Isin 2002). Citizenship institutes and enforces a formal status, and is a mode of political being via a set of discourses, practices, techniques and institutions delineating what this mode should be in order to belong to the political community. Citizenship is also constituted by acts rupturing these modes, and the related habitus they enforce. In that respect, the interstices between security and citizenship are sites where political organizations craft authority and political community by turning citizenship rights into privileges, and where this crafting is contested by those seeking to re-appropriate the universal legacy of citizenship. Citizenship is never simply granted by a central authority and consumed by its subordinates and subjects. Rights and categories of belonging constitute discriminations that lead to contestations of their scope and legitimacy. They are also appropriated and misappropriated by various governing bodies, ranging from local government to private security companies, to sustain their legitimacy and address social and political issues specific to their policy sites and situations. By taking into account both the governmental and disrupting aspects of citizenship practice in securitizing sites, an interstitial study of citizenship and security allows for these various aspects of citizenship to be retained within analyses of securitizing moments, processes and sites.

The next three chapters introduce changes in citizenship regimes against the background of the governance of security. Peter Nyers looks at practices that are democratically unmaking borders in situations in which migration and border crossing are securitized. Methodologically, he treats actions by citizens and non-citizens as equal

in order to analytically (and politically) privilege those subjects and movements that are already acting in ways to democratize borders. Both methodologically and substantively the chapter challenges the pre-supposition of a clear distinction between citizens and non-citizens that sustains citizenship regimes. In particular, the chapter demonstrates how the territorialization of this distinction through bordering practices is disrupted by what Nyers terms irregular acts of citizenship.

While Nyers renders the distinction between citizens and non-citizens and its territorial expression problematic, Engin Isin questions the relevance of the distinction between human rights and citizenship rights, as formulated by Hannah Arendt. The distinction between human and citizen has been a central component of framing political choices in relation to rights as well as security practices. The questioning of national security in the name of human security, contestations of the prioritization of human rights over national citizenship rights, and the confrontation between cosmopolitan visions of world security and communitarian visions of national security, express the relevance of this distinction for the politics of citizenship and security. Drawing on developments in citizenship and human rights regimes since the end of the Second World War, including a sociology of the formation of a transnational human rights field, Isin argues that we can no longer speak of two distinct regimes of rights – human rights and citizenship rights. This development seriously challenges one of the cornerstones of citizenship regimes and how they function within the politicization of the right of security. Opposing human rights to citizenship rights, and human security to national security, remains an extensively used instrument in the critical analyses of security politics. Isin concludes his chapter by tentatively exploring how the merging of the two regimes, and the location of this process in a transnational human rights field, creates and constrains new possibilities for politics.

Antje Wiener draws attention to how securitizing is not a self-sustaining process, thriving on claims foregrounding the need to defend and protect citizens. She starts with the observation that security practice not only secures but also threatens fundamental rights. This has become the basis for a growing international constitutionalism challenging the priority of national legal regimes for the protection of fundamental rights, and judging the legitimacy of their transgressions in the name of security. International and supranational constitutional orders have become an important arena where security practices are held to account, and in relation to which transnational citizenship practices are reconfiguring nationally instituted conceptions of rights, belonging and access.

Following on from these challenges to instituted distinctions that inform the practice of citizenship regimes, the book turns to the theme of statecraft, looking in particular at two issues: (1) how securitizing practices are changing and challenging the state's crafting of the citizen–state relation; and (2) what opportunities exist for challenging these securitizations. Anna Leander looks at the commercialization of security, which refers both to the reliance on private markets for the delivery of security, and to the interference of market governance in the public sphere. The nature and consequences of displacing security from the state to the market have

been widely analysed under the heading 'privatization of security'. The question of whether the commercialization of security and the change of focus from state–citizen relations to market–citizen relations opens up new opportunities for citizens' action to de-securitize areas of life has not, however, gained much attention. Leander picks up this question in her chapter. The commercializing of security seems to promise more opportunities for citizens to interfere in de-securitizing, both as consumers and because of the seemingly more decentralizing nature of the commercial provision and marketing of security. Leander's analysis of the marketing of security, however, warns that the reverse may be actually the case. The opportunities for greater citizen involvement through the decentralization of the right to claim protection rights, that the market seems to encourage, are countered by the clientilistic and contractual relations that constrain access to the right to security. The commercialization of security also makes securitizing more banal, which again should make it easier to de-securitize. Yet, it diffuses security and entrenches security expertise which ultimately makes de-securitizing more of a challenge than in a situation where security can be negotiated in the instituted relations between citizens and the state.

Ákos Kopper looks at another development in contemporary securitizing: the digitalization of surveillance allowing individualized governance of populations. Technological developments have increased the state's capacity to rule its citizens. In particular, developments in, and the diffusion of, technologies extracting information for the purpose of governmental interference, have made securitizing governance more pervasive and seem to have significantly reduced citizens' rights and autonomy. Yet, as Kopper argues, the new technologies also create new opportunities for citizens' actions. Computer technology, mobile phones and social networking sites do not simply provide the State with information, but also allow citizens to bring information into the public sphere and into political contestations of the legitimacy of governmental practices. In addition, the technologies can facilitate new forms of sociality between citizens, often in the private sphere but which can then be mobilized for public protest. Both the security governance of citizens and possibilities for citizens to challenge governmental legitimacy and resist surveillance are re-configured in the development of surveillance technology.

Flora Burchianti's chapter offers an analytics of the scale and scope of the political mobilization surrounding the possibility for undocumented immigrants to be political, beyond their formal integration in the political community as citizens. While most of the literature on securitizing citizenship has argued that undocumented immigrants are principally confined to national spaces of abjection (the camp, for example), where they are denied their politicality, some work has shown that undocumented immigrants can also seek refuge in local 'sanctuary' spaces (the school, for example) where this politicality can be restored and preserved. Yet, Burchianti argues that what seem to be opposite – securitizing as de-politicization and activism as re-politicization – are actually working together at the interstices of security and citizenship. Securitization at the national level based on 'universal' categories – the migrant, the foreigner – has paradoxically enabled localized and sectorial politics – your neighbour, your child's school friend – to gain momentum, either by enshrining the discretionary powers of

local officials and authorities directed to migrants, at times counterpointing national security policies, or by highlighting the arbitrariness of national considerations in light of local everyday interactions. Here, security and citizenship are at work both in conjunction and in disjunction at their interstices. As an analytics of democracy, Burchianti's chapter highlights the complex interplays between a variety of actors and spaces, through which the disabling and enabling of (new) modes of being political simultaneously reinforce or disrupt the securitizing of citizenship.

The third theme concerns the crafting of political community and the governmental and critical engagement with nationalism. Francesco Ragazzi's chapter discusses how diaspora policies and post-territorial citizenship have become tools for exclusionary politics of belonging. Contemporary state politics concerning its citizens and nationals are not, if they ever have been, delimited by national boundaries. It is thus important to offer new understandings of nationalist politics when the constitution of the national political community reflects the de-territorialized interplays between citizenship and security. Ragazzi's chapter shows how the national political community is constituted in relation to those moving in or out of its territorialized borders, or those potentially displaying a multitude of ways of political belonging, and how the latter are constructed as either security threats or assets. He argues that, at first, the dominant interplay between security and citizenship in the constitution of a national community was characterized by a project of homogenization of territorially defined citizens. This was achieved by excluding and securitizing those possessing more than one citizenship, as well as those seen as potentially disloyal because of their belonging to identities other than the nation-state. This trend was happening not only in immigration countries but in emigration countries as well. Ragazzi then highlights a bifurcation between immigration and emigration contexts: in the first, migrants do not face as much pressure as before to assimilate to become citizens, while at the same time they become more and more subject to the logics of surveillance; in the second context, one can witness the emergence of forms of post-territorial citizenship which comprise 'policies of diaspora inclusion or "global nations" premised on a de-territorialized, ethnic conception of citizenship, and the novel exclusion of unwanted territorialized ethnic group'.

Sandrine Bertaux and Fırat Bozçalı, in their chapter, engage with the (re)production of a patriarchal national community in Turkey through the shift from a territorially to a biopolitically defined political community. By analysing the actual logics behind the recent reform of Turkish citizenship law, they show how the law was changed not only to make it more gender-fair in appearance – removing, as it did, the distinction between male and female spouse – or, as most scholars and commentators have argued, to curb marriages of convenience, but rather to go hand in hand with a heteronormative and patriarchal construction of alien prostitution as a danger to both the health of the Turkish family and the morality of the institution of marriage. From a biopolitical perspective, the law achieves two objectives in terms of the interplays between security and citizenship in the constitution of the Turkish political community. On the one hand, it helps to securitize the Turkish political community from alternative conceptions and claims that have emerged among sections of Turkish

society, especially among women engaging with the predominant patriarchal nationalism in Turkey. On the other hand, the law also places heteronormative sexuality as a core 'technology of power to govern alien and national women' with the consequence that alien women are presented as a biopolitically threatening counter-model to Turkish women. Alien women could represent alternative conceptions of being political and, to diminish their 'threat', have been positioned under the control of Turkish patriarchial norms they would normally escape, or even subvert. Turkish women are, on the contrary, offered both an unthreatening 'proper' model of the female Turkish citizen and also a straw-woman upon whom they could redirect their claims and anger from their own male family members. All in all, both alien and national women are excluded from the constitution of the Turkish political community as they are 'denied their status as political subjects in their own right'.

In her chapter, Angharad Closs Stephens introduces a different take on the question of political community. She asks how national political community was crafted and contested through interpellating citizenship and nationalism in the heightened context of insecurity in the US following the terrorist violence on 11 September 2001. She starts by unpacking how nationalism and its intersections with other techniques of governing belonging and exclusion, such as racism, render political unity in the name of protecting the nation. Yet, the core issue of the chapter is the question: 'How might we begin to imagine community without subscribing to the language, logic and temporality of nationalism?' This question is particularly relevant against the background of the discriminations that nationalist conceptions of community mobilize and justify in the context of heightened insecurity. Critically engaging conceptions of national community is a strategy to re-position citizenship and belonging in ways that question the calls for political unity that often go hand in hand with securitizing practices. Closs Stephens looks in particular at two interventions, one by Cynthia Weber and another by Judith Butler, that interestingly seek to unsettle national community as it has been crafted in the US after the events of 11 September 2001, by deploying the language of national community itself. She recognizes this is a tightrope to walk, but might be tactically necessary in situations of heightened nationalism. Although these interferences re-imagine the nation, they remain ambivalent in terms of the degree to which they lock political community within variations of national community rather than develop alternative visions of community and its relation to citizenship.

The book concludes with two chapters that discuss the central link between security and citizenship in contemporary democratic politics. Yagil Levy's chapter turns back to a central question in the historical sociology of the link between security and citizenship. How does the state manage its citizens' lives and deaths by prompting individuals to be willing to sacrifice their lives for their country? Security and citizenship are thus at the heart of a key tension in democratic politics: the citizenship right to protection is materialized by the citizens' readiness to protect the life of fellow citizens. Republican contract approaches help mitigate this tension by claiming that the state allocates political and social rights to social groups, beyond state-provisioned security to the entire community, in return for their willingness

to sacrifice their lives for their country. Thus, the right to protect, namely, to bear arms, has rarely stood for itself but has emerged as a hallmark of citizenship, that is, of other rights. Nevertheless, the citizens' right to be protected can clash with the right to protect when the state fails to sustain this 'right to other rights', as when the republican contract is undermined. In this case, the citizens' right to protection is undermined as well, as the 'protectors' might question their duties as attested by the legitimacy crisis of conscripted militaries in most democracies since the 1970s. Levy presents different ways in which democracies cope with this problem, from the reduction of citizens' risks by abandoning the liberal-democratic imperative to respect non-combatant immunity, to the removal of the complicated right to protect from the citizenship arena by commodifying the military service.

Matteo Gianni's chapter on the integration of Muslims in Switzerland seems at first to offer a traditional reading of the negative effects securitizing bear upon citizenship. Securitizing works to hierarchize individuals and groups not only between those who formally belong to the polity and those who do not, but also among those formally part of the polity by distinguishing and thus hierarchizing good and bad citizens. It is, however, assumed that this hierarchizing works across specific lines, whether they may be racial, religious, or economic. One might formally be a citizen but still be deemed illegitimate to claim the right to have rights because one is racially (for example, European citizens of ex-colonies), religiously (for example, Muslims in Europe) or economically (for example, the unemployed in neoliberal polities) discredited to act as a citizen. However, Gianni's chapter shows that even though one finds these specific forms of hierarchization in the Swiss case, another central form is also present: the political. Gianni argues that the securitizing of citizenship even diminishes the capability of citizens coming from the mainstream of society – and apparently not subjected to any hierarchization of their legitimate claim to have the right to have rights – to contest and engage with the dominant conceptions of the good life that are set and enshrined through this securitization. Alternative ways to be political and forms of contestation are hierarchized through this securitizing and thus delegitimized as alternative understandings of the good life; alternative understandings that might even be coming from the mainstream of society. It would, however, be wrong to put this hierarchization on the exceptionalist dimension of securitization, it pertains to democratic processes.

The contributions to this book offer a sustained reflection on the interplays between security and citizenship. This reflection is much needed as it goes beyond its academic value. Practices of security and citizenship – whether related to demands for the recognition of specific groups, practices of ascription upon specific groups, or the definition of (potentially) threatening or subversive groups – have concrete effects upon the everyday life of citizens and non-citizens alike. To provide for a discussion and an analysis of these interplays and their effects is thus to address important empirical, theoretical and normative issues that are central to some of the most contentious policy areas today, including immigration, cultural and ethnic minority rights, civil rights and liberties, terrorism and counter-terrorism, the marketization of security, and global mobility.

Note

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2

CITIZENSHIP AND SECURITIZING

Interstitial politics

Jef Huysmans and Xavier Guillaume

Most studies of how insecurities are socially and politically constituted develop sophisticated dystopian sociologies of security practice. They emphasize that security is a technique of exclusion, discrimination, and/or unmaking the political capacity of subjects. Yet, such an understanding of the politics of insecurity is only part of the story. Securitized subjects do not always passively enact discriminations and de-politicizations; they also produce cracks in securitizing processes. Take, for instance, the case of the *sans-papiers*, in France; they are enacting a mode of being political using the universalist discourse of French republican citizenship to 'claim a right of membership' – reflecting the fact that most of them are not only direct descendants of France's colonial past but also actively participating in the political economy of the country (McNevin 2006; see also Burchianti in this volume). These ruptures in securitizing rarely make it into security studies. Critical studies of securitizing, however, embrace the possibility for such practices to exist. They combine a dystopian sociology with a politics of hope. Yet, this politics, and with it the 'power' of practices that disrupt securitizing, remains largely a spectre – a haunting but absent presence (see Derrida 1993: 15–16, 22) – in their political and sociological analyses.

Critical studies of securitizing work, within various traditions of critical research, unpack the workings of domination, exclusion, subjugation, and discrimination for the *purpose of making change possible*. Yet, for the most part, this political aim is not turned into an *analytics* that would make it possible to analyse securitizing processes at their juncture with practices that disrupt the de-politicization and exclusions produced by securitizing. By analytics we mean 'an analysis of the specific conditions under which particular entities [here: political beings] emerge, exist and change' (Dean 2010: 30). In particular, such an analytics develops conceptual devices that turn the spectre of another possible politics into an immanent analytical presence. In this chapter we propose that an analytics of the interstitial between

security and citizenship is one method of doing this. The chapter proposes to correct the dystopian focus of the analytics of securitizing by taking citizenship seriously as a category through which political being is analysed. This proposal is not unproblematic, and it is certainly not the only way to pose an analytics of being political in dystopian visions of securitizing. It is, however, not an insignificant one either, especially in those sites, situations, and moments where security and citizenship have again become central to the formulation of political life. This has been vibrantly illustrated by recent examples in the Arab world concerning women's political being in societies in which the state and societal apparatuses have excluded them from being political (see Hatem 2005).

In order to propose such an analytics, we first highlight the key political elements in work on securitizing, and then introduce a conception of citizenship that retains its ambiguous history of being both an institution of domination and exclusion *and* a mode of empowering subjugated, excluded, and alienated people. Finally, we propose the interstitial between security and citizenship as a method of analysing the political practice of those considered as alienated or excluded from politics, and thus of bringing them within the political scene.

Securitizing

Languages of danger, insecurity, fear, and anxiety are widely dispersed in today's world. Many issues and policy developments are accounted for in terms of security. Living together, in its everydayness, is heavily mediated by representations of insecurities, ranging from deadly bacteria to nuclear terrorism. We can read these languages as both symptomatic and constitutive of reconfigurations in political, security, media, and other fields of practice. Neat distinctions between policing and defence, or high politics and low politics, for example, do not contribute much to our understanding of how surveillance technologies connect identity fraud, welfare provisions, and counter-terrorism intelligence. Currently the security field has been reconfigured in such a way that police, military and – in other sectors – humanitarian, development, and environmental organizations, operate within the same field, competing over resources and authority.

Security studies have mirrored these developments. From a narrow focus on the military dimensions of interstate relations, it has expanded into a much wider field of interests since the 1980s (Krause and Williams 1997). Its understanding of security has widened to economic, environmental, societal, and political insecurities and deepened to notions of individual, regional, and global security (Buzan 1991 [1983]). At the same time, a significant group of scholars turned away from evaluating the reality value of threats, analysing the strategic interactions that emanate from insecurities, and proposing credible counter policies. Instead they started looking at how security practice itself constitutes insecurities; how security is not a question of a given threat but of a definitional process of securitizing issues. Using security language is, then, no longer simply a matter of talking about insecurities that exist outside of the language (Campbell 1992; Wæver 1995; Fierke 1998). Instead, the

language itself plays an important role in making issues such as migration, the arms trade, or the environment into security questions upon which security institutions can legitimately act. Security professionals do not simply seek efficient and effective responses to existing and emerging threats. They compete over what are the security problems of our time. The specific way phenomena are framed, impacts on which security professionals can bring both their expertise, and also their organizational and economic resources, to bear upon policy questions (Bigo 1996, 2000; Guiraudon 2003). These approaches treat security less as a problem and more as a technique of governing, that is, methods and strategies of doing things in a security way (Aas *et al.* 2008; Huysmans *et al.* 2006; Dillon 1996; Huysmans 2006; Aradau 2008). It has led to a rich body of analyses of the political and social constructions of insecurities.

The politicality of securitizing has been at the heart of these studies. Not only do the studies counteract the conservative focus of strategic studies (Booth 1979) and its state-centred and objectifying stance over what is security, but they also raise the question of the political consequences of deploying security techniques. Yet, these critical studies of securitizing still possess a political deficit (Aradau 2008). Governing through security is often approached as depoliticizing.[1] Securitizing practices are analysed mainly as sustaining exclusions and undermining central aspects of modern democratic politics. Let us look at how four main approaches bring out the depoliticizing nature of securitizing.

One approach interprets securitizing as a move from normal to exceptional politics (Buzan *et al.* 1998; see also Huysmans 1998, 2004; Williams 2003). Security practice consists in declaring existential threats – for example, an invasion by a foreign army, or the massive influx of illegal immigrants – to a state or community, which requires emergency measures if the community is to survive. Sharp distinctions between friends and enemies, and positing a need for swift decisions, are the political heart of this mode of securitizing. Securitizing de-politicizes in a number of ways here. First, it prioritizes a logic of necessity over logics of freedom and deliberation. To survive, and thus remain free, one needs to postpone deliberative politics and the freedom to articulate different positions because of the necessity to unite against the enemy. Second, securitizing contains an authoritarian move in which the sovereign ruler, embodied in the executive or the president, temporarily or permanently claims a monopoly on deciding what is right and wrong. In doing so, they side-line other mechanisms and institutions of decision making, such as inter-institutional checks and balances and pluralist interest representation (McCormick 1997). Finally, by foregrounding the primacy of an existential relation between friends and enemies, this mode of securitizing displaces the relation towards alterity, a condition of politics, by transfiguring alterity into an otherness that needs to be kept at a distance or even eliminated (Connolly 2002 [1991]; Isin 2002).

A second approach to securitizing focuses on the configuration and reconfiguration of security fields in which security professionals and experts compete over both resources and – most importantly – over what counts as 'proper' security

knowledge and technology (Bigo 1996). For example, the idea that contemporary insecurities question the distinction between internal and external security is not primarily a question of the transversal nature of security threats, such as environmental or migratory developments. Rather, it fundamentally results from reconfigurations in the field of security professionals, with the police successfully claiming credible expertise to work abroad (for example, in peace building initiatives) and with the military successfully claiming expertise which, for example, contributes to certain police and humanitarian operations (see, for instance, Duffield 2001; Bigo 2000). Here, the politics of insecurity lies in the competition and struggle between security professionals who claim a monopoly over the proper definition of (in)securities and adequate counter-measures. They are trained to do security and they do it as a full-time job: they are the experts, the specialists (see Bigo 1996; Bigo and Tsoukala 2008). Securitizing power does not rest with the government or parliament, for example, but with professionals and experts who legitimate their position through claims of superior security knowledge. The depoliticizing effect of securitizing follows from the dominance of expert knowledge over popular and political knowledge, and the related dominance of instrumental over value reasoning (see among others Rogers 2009; Aradau and van Munster 2008; Amoore 2006).

A third approach to the inscription of insecurities in social and political relations looks at the creation of cultures of fear. Dangerous accidents, safety, infections, and fear of strangers – among many others – are seen as becoming central to how people mediate their relations with one another, commodities, and the environment. Fear is seen as having a paralysing effect on citizens. Such cultures of fear make people focus on their own safety and on the many minuscule and big dangers of life, rather than the conflicts and stratifications in society or, more generally, matters of common concern. Citizens' imperative to mobilize against injustices and around policy decisions is then severely reduced. Cultures of fear are seen to de-politicize by producing docile, politically passive citizens who have lost interest in politics (Furedi 2002).

Finally, analyses of the dispersal and use of surveillance technology, combined with the development of governing through risk in many areas of life, demonstrate a highly disciplining and discriminating process of securitizing. The disciplining effects of surveillance can be seen as people incorporate their own visibility to authorities in their everyday practices; being visible makes them act in accordance with expected norms and patterns. Similarly to cultures of fear, securitizing creates docile citizens. Combined with a belief that technology will provide an adequate answer to social problems, the increasing governance of, and through, risks sustains a technological culture that seeks managerial solutions via technology, rather than the human capacity to mediate between a plurality of values and interests (Aradau and van Munster 2011; Marx 2007). Surveillance techniques also have a disembodying political effect. They unmake social and political relations between individuated bodies, and replace them with virtual entities and relations that are (re)assembled from a set of data (Lyon 2001: 16). Risk governance further creates exclusions by treating subjects as either a risk or at risk – or both. As Aradau (2008) argues in relation to human trafficking

and sex work, sex workers are either seen as a risk to public order, health, and other securities, or as victims of trafficking. Neither of these risk categorizations gives them political voice. Instead it subjects them to governing techniques including criminal convictions, expulsion, counselling, and therapy.

Most studies of securitizing thus concentrate on the de-politicizing nature of security practice. That securitizing is de-politicizing does not mean that security practices remain uncontested. Exceptionalist securitizing often involves a high level of contestation between sections of the juridical profession and the government. The field of security professionals is strongly contested, with various individuals and professional organizations competing and negotiating over insecurities and resources, etc. Yet, all four modes of securitizing we highlighted share an understanding that securitizing processes skew power relations towards the elite, the experts, and/or technological governance. They share an understanding that security practice de-politicizes by reducing the capacity of 'people' to critically bear upon and appropriate securitizing sites and situations. In such sites and situations, 'the people' are seen as acted upon, acted for, or implicated in the reproduction of political docility.

Yet, in many instances, securitizing is disrupted by people enacting sociations and associations that bring excluded and alienated subjects to the fore of the political scene, as is the case for instance with the Arab Springs movements (see, for instance, Benhabib 2011; Abou-Habib 2011), the *sans-papiers* or the '*indigènes de la République*' in France (see McNevin 2006; Robine 2006), or as it can be argued for the Occupy movement, and 99 per cent of movements throughout Europe and North America (see symposium on the Occupy movements in the *Journal of Critical Globalisation Studies* 2012). They create moments in which securitized/ing sites and situations become political again. If securitizing is indeed a technique of limiting the constitution of political beings and of being political, then reading these processes critically requires studying how those individuals and groups, delimited in their politicality, actually become political by constituting themselves as 'on site' rather than outside, and 'in relation' rather than excluded (Isin 2002: 50). The concept of citizenship is the vehicle we propose throughout this volume for inserting this understanding of politics in studies of securitizing.

Citizenship

What is citizenship? What makes it a tool for introducing a fuller spectrum of politics? What kind of politics does it engage? Citizenship is a concept that intersects with many understandings, from citizenship as a formal status of belonging to a political community, through a set of rights and duties structuring the relation between individuals and the state, to a set of practices delimiting this political community. The cultural values and attributes embedded in the institution of citizenship constitute the symbolic standards determining who is, or is not, part of a political community, who should or should not be, how one has to behave as a good citizen, and how one should behave in order to become a citizen (see Alejandro 1993: Ch. 1).

Citizenship, however, also encompasses another dimension: it expresses 'a right to being political, a right to constitute oneself as an agent to govern and be governed, deliberate with others, and enjoin determining the fate of the polity to which one belongs' (Isin 2002: 1). Citizenship, then, is a process in which agents enact themselves as political subjects, asserting a right to be political. In this latter conception, enacting citizenship is a double practice of political subjectivation. It is a practice of being positioned, and of positioning oneself, simultaneously as subject to be governed and as subject with a right to act creatively upon modes of government, the nature of polity, and the formation and distribution of rights and obligations. Citizens are not the people to be governed but subjects who enact themselves as being simultaneously subjected to and subjecting government.

Historically, citizenship has been an institution of domination and alienation. It has been a technique of crafting undifferentiated masses of people into a people of the state by separating citizens from non-citizens. Citizenship has also been an institution of domination and hierarchization, stratifying people by assigning differential capacities for citizenship – for example, rational reasoning, responsible use of freedom and level of income. Those excluded from the right to be political were subjects that could be cared for, or that could be politically educated, but that could not (yet) be politically sociable. The use of citizenship to dominate people from the colonies was a particularly stark example of the dominating, hierarchizing and excluding work of the institution of citizenship (see Hindess 2009), as was the exclusion of women from full citizenship. The world is still rife with examples of the continuing use of citizenship as a governmental technique of domination and alienation; these include the stratification of immigrants through changes in citizenship laws, and the continuing suppression of many indigenous peoples' rights.

Yet, limiting the understanding of citizenship to this genealogy over-governmentalizes the concept. It underplays that citizenship has, equally importantly, been a claim for the right to be political by subjects challenging hierarchies, alienations, and instituted forms of government (Isin 2002). There are many histories of women, indigenous peoples, children, irregular migrants, colonized people, and slaves claiming and struggling for access to citizenship rights, to be included more extensively in the polity, and/or to constitute a new polity.

Citizenship is thus an ambivalent practice that equally easily mobilizes discriminations and exclusions, as well as challenges them. This ambivalence has been immanent to the modern conception of citizenship as it developed out of the French and American revolutions. It arises from the aporia – insolvable impasses stemming from equally valid but inconsistent principles or premises – that characterize modern citizenship, and in particular citizenship as the expression of the sovereignty of the people. Let us look at two of the most often quoted aporia.

The first aporia is related to how citizenship addresses the question of constituting political community among a plurality of people. How is the coexistence of the unity of a political community and a plurality of political subjects represented, expressed, and negotiated through citizenship? This question expresses a central feature of an individual belonging to a polity's self-understanding and representation:

to be a citizen means to be part of an imagined political community as well as to participate in a political and national collective project (Anderson 1991; Isin 2002). This process is inherently tensional because people need to exist as parts of a common will – a polity – while at the same time they need to remain a plurality of wills – with various opinions, interests, and values – and negotiate their living together (Balibar 2002: 181). Political authorities seek to constitute unity by claiming to represent the community and its interests as a whole. Their claims are necessarily hypocritical, however, because democratic political rulers cannot fully transcend the community of autonomous people, who as subjects hold different opinions and values, since they derive their legitimacy from mobilizing support from within a plurality (Latour 2003). To be legitimate requires gaining support from citizens with free will. Successfully eliminating plurality and constituting a unified community expressing one single will destroys the modern conception of politics and citizenship. More generally, in Bauman's terms, there is an 'intimate connection [. . .] between the autonomous, morally self-sustained and self-governed (therefore often unruly, unwieldy and awkward) citizen and a fully fledged, self-reflective and self-correcting political community. They can only come together; neither is thinkable without the other' (Bauman 1995).

Political representation is not limited to the pluralist problem of aggregating opinions and interests into a collective equilibrium or expression. It is also about representing the collective as a unity consisting of conflicts (Balibar 2002: 185). Citizenship is a vehicle for translating conflicts over social stratifications, class, discriminations, and justice, among others, into political issues that bear upon and become an inherent part of the definition of the polity. For example, racial and gender discriminations and the conflicts they imply become political through a struggle to represent these conflicts as of concern to the polity as a whole, and as forming a legitimate terrain for political mobilization within the polity. Enacting citizenship thus includes configuring social conflicts into political relations, making alienations and dominations a stake of the polity, and offering alternative modes of being political to those who have fostered and sustained these alienations and dominations.

A second aporia of modern citizenship is that it simultaneously expresses the equality of people and the division of people in territorialized national polities (see Hindess 1998). While citizenship has been an instrument of crafting a people of equals, in which rights are universal and not a privilege, historically it has also been a vehicle for working differentiations within this universal people. On the one hand, citizens comprise a people united around a body of law and rights and/or a set of narratives about its origins. Both allow the people to recognize themselves as a collective unity and a body of individuals with political status. On the other hand, citizenship is constituted in relation to those without rights or limited rights, those who remain outside of the narratives of the people's community of origin (Isin 2002). In this continuum between inclusion and exclusion, citizens are actually stratified, rather than dichotomized. Rights are often assigned differentially and citizens do have different capacities to claim rights within the citizenry body.

Yet, however many differentiations we introduce, the key point remains the same: citizenship works differences and hierarchies by assigning rights, belonging, and political capacity to certain sections of the people. It turns universal rights and belonging into privileges (Kingston 2005). The people are never one and equal in that sense, but always already split. For example, the free movement of sex workers is far more restricted than the free movement of other self-employed citizens in the European Union (EU).

As Balibar has extensively argued, popular sovereignty brings a critical tension to bear upon this splitting work of citizenship. It inserts 'the principle of the non-exclusion of one's own mass or multitude' from the people (Balibar 2002). Through the inscription of a universal principle of equality it prevents the citizenry closing itself off from its self-constitution as a people by discriminating, differentiating, and excluding various categories of 'lesser people'. The principle of equality mobilized here is not simply based on a formal equality in legal status, or equalities in relation to public institutions. It also refers to the equality of chances to develop one's capacities. This understanding of equality relates to a double concept of freedom in popular sovereignty. Popular sovereignty implies the freedom to be an author of the laws to which one conforms. This freedom is at the heart of contractual approaches to citizenship. Popular sovereignty also includes the freedom of being one's own property and thus of subjects being free to develop and articulate their own capacities (Balibar 2002). This universality of equality can be re-enacted by those placed outside of the proper citizenry, or those stratified towards the bottom of the social and political hierarchy to challenge and rework the instituted differentiations of the people. In the name of realizing their own capacities, they can claim the right to hold rights. For example, sex workers challenged their criminalization and rights depletion in the European Parliament in Brussels, in 2005. They demanded protection of various rights as well as the right to hold rights for all sex workers, irrespective of whether they were EU citizens or third country nationals. On the grounds of their humanity, and their employment in the EU, they sought to disrupt instituted discriminations that separate the 'active citizen' whom the EU seeks to embrace, from the lesser European people who are primarily treated as criminal, irregular, or unwanted (Andrijasevic *et al.* 2012).

These two aporias illustrate the ambivalent conception of modern citizenship with its capacity for both creating and disrupting political domination, instituted discriminations and exclusions. The impossibility of claiming full representation of a plurality of people combined with the in-principle-infinite category of equality of people makes it possible for subjects who are not – or who are lesser – citizens to enact themselves as such. Although modern citizenship is a governmental institution, it also remains a vehicle for creating political sites and situations in which subjects enact themselves as being part of, rather than outside, political being (Isin 2002, 2008).

Conceptualizing political being through the modern concept of citizenship is not without its problems. Among other things, it tends to universalize a particular historical experience of political being, detaching citizenship from its reworking in the

many struggles for political being elsewhere, and at other times. Yet, introducing historical content to the notion of citizenship of the two aporias illustrates that the claim about the ambivalent nature of citizenship is more than an analytical move. It is related to what has historically been invested in the claim of citizenship.

Drawing on this tradition of citizenship, we have a particular interest in citizenship as those practices in which subjects kept off, or at a distance from, the political scene – through practices of victimization, criminalization, and enemy construction, for example – act themselves as being on the scene. Such actions do not always succeed but

> acts of citizenship [are] those acts that transform forms (orientations, strategies, technologies) and modes (citizens, strangers, outsiders, aliens) of being political by bringing into being new actors as activist citizens (claimants of rights and responsibilities) through creating new sites and scales of struggle.
> *(Isin 2008: 39)*

For example, while most 'hooligans' in Europe over the last two decades have mobilized claims to the right to hold rights, 'irregular' migrants have on various occasions pro-actively mobilized to disrupt the political scene by claiming the right to have rights. The Arab 'uprisings' can also be understood as the enactment of citizenship in the sense of subjects appropriating spaces, disrupting instituted practice, mobilizing symbols, and claiming rights and belongings which make them political subjects rather than simply subjects upon which governments act. These practices are crucial to bringing a fuller spectrum of politics into the analysis of securitizing.

Yet, as noted, the genealogy of citizenship, as well as the practices connecting citizenship and security, caution against an uncritical embracing of citizenship. The universalist framework offered by (liberal) citizenship might also normatively fall into forms of homogenization and injustice, as equality (being citizens) is gauged on a model in which universality means the particularity of the white, male, bourgeois citizen (Young 1989). Of particular interest here, is that when citizenship and security practice come together they tend to efface the politically disruptive and transformative qualities of citizenship, set out above. For example, notions of the good citizen have been deployed in counter-terrorism to split the deserving, non-terrorist person or group from the un-deserving, potentially terrorist person or group (Engle 2004) and to call upon citizens to participate in counter-terrorism, as opposed to questioning it (Committee on Homeland Security 2011). In Italy in 2008, Berlusconi tried to introduce a security package aimed in particular at the Roma and Sinti. Under the heading 'Free movement of EU citizens', it proposed a law that sought to curtail the rights of certain EU citizens to reside in Italy. EU citizens who cannot prove financial security, the possession of health insurance, or residence in accommodation meeting hygienic requirements, would be removed on 'public security' grounds (Guadagnucci 2009). This law would apply in particular to citizens living in caravans and Italy's '*campi nomadi*', the vast majority of whom are the Roma and Sinti. Security and citizenship come together to strip a

particular group of European citizens of their rights (Andrijasevic *et al.* 2012). A recent edited volume surveying various aspects of the securitizing of citizenship (Nyers 2009) confirms that security practices and technology tend to reduce the political spectrum of citizenship to an institution of domination and alienation. In security contexts, the progressive, critical legacy of citizenship seems to be curtailed, contained, and neutralized. Hence the part rhetorical question of the editor, Peter Nyers: what is left of citizenship? It is as if once citizenship comes into contact with securitizing it is contaminated by its alienating and dominating nature.

Although securitizing processes are powerful, especially in sites and situations that security studies are drawn to, the analyses in Nyers' volume nevertheless give a partially skewed picture of what is happening at the interstices between securitizing and citizenship. Focusing on the effects of securitizing, they share with securitizing studies an analytical bias towards the power of governmental practices and techniques, and to understanding the processes of exclusion and domination that they produce. Such an analysis excludes the disruptive enactment of citizenship and tends to reproduce the de-politicization that is analytically built into the sociologies of securitizing (see the section above). As we explained earlier in this section, citizenship is a messier concept and practice, one that not only expresses domination and alienation but also empowerment and the creation of new political beings and socialities. Reducing citizenship to governmental techniques of domination and alienation, and focusing analyses on how the coming together of citizenship and security reinforces these workings of citizenship, overlooks the other politics that is invested in citizenship. Therefore, for us, the question 'what is left of citizenship?' is not a desperate confirmation that security has deleted the critical credentials of citizenship, but rather a call for an analytics to bring this messier nature of citizenship into security studies.

To bring to the fore the concept of citizenship in security studies is precisely to highlight how the interstitial between security and citizenship can also bear upon the creation of new modes of being political, and of new political beings, that move against, and are not solely the result of, the (re)production of forms of governance, domination, and oppression.

The interstitial

We propose mobilizing 'citizenship' analytically in securitizing studies to include, as an immanent part of the security analytics, alienated and subjugated subjects who enact themselves as political subjects that are part of, rather than external to, politics. The ambivalent nature of citizenship – it pulling in opposite directions of governance and enacting political being – is a strength of the concept, rather than a weakness, for this purpose. While drawing disrupting practices into securitizing analysis, it simultaneously guards against naively or romantically embracing the critical tradition of citizenship. The remaining question, then, is how to conceptualize the nexus between security and citizenship so as to make it a method for introducing an analytics of 'the other politics' in the study of securitizing – an analytics that remains an absent presence in many critical studies of securitizing.

Our answer is an analytics of the interstitial that makes the relation between security and citizenship conjunctive and disjunctive at the same time. Citizenship and security work in conjunction to reinforce subjugations and alienations, and to contest the legitimacy of certain enactments of political socialities. Yet, citizenship and security also work disjunctively through practices of citizenship, enacting new modes of political being that disrupt the securitizing of citizenship and the alienations that are crafted at the political creation of nexuses between citizenship and security (see Burchianti in this volume). Both dimensions need to be included to introduce the wider spectrum of politics in securitizing studies.

In that sense, ours is not a proposal for locating politics outside of security (Aradau 2008; Neocleous 2008), and thus with citizenship. Instead we propose an analytics of the interstitial between citizenship and security. At their interstices, security and citizenship are conceptualized as being in close proximity and intense relationality, but with crevices, gaps, hiatuses, and intervals. The latter prevent the relation being simply enacted as a governmental totality of mutually reinforcing techniques of governing. The concept of interstices draws attention to a relation that cannot be simply understood in opposition or contradiction (for example, conservative security versus the progressive heritage of citizenship) or as mutually constituting a synthetic whole (the coming together of security and citizenship reinforcing the exclusions instituted by each of them separately). As interstitial, the relationality between security and citizenship is simultaneously reinforcing and disjunctive.

Nyers' work on refugees and migrants highlights this interstitial tension. He has shown, on the one hand, how human security deletes the political voice of people in precarity while, on the other, how non-status migrants, among others, seek to recapture the political actions of those who are seen to be without voice because they are cared for or criminalized.[2] The difference interstitiality makes is that rather than oscillating between each aspect in different pieces of work, it opens an agenda for working both at the same time. For example, Papadopoulos, Stephenson, and Tsianos (2008) simultaneously analyse migrants circumventing, challenging, avoiding, and being caught by the border control regime in Europe. They present a detailed analysis of how camps and other techniques of policing cross-border mobility do not simply work through the control of space (keeping people out, returning people) but also through structuring time. Camps do not keep the migrants from entering the territory, but slow them down. Compared to tourists and businesspeople who move speedily, their slowing down places them into more precarious positions in the labour market. Unlike many securitizing analyses, however, they bring the political dimensions of migration into this study of control and security techniques. By analysing control techniques as responses to autonomous migrant actions, which they refer to as 'escape', theirs is never just an analysis of policing, but always also about the autonomy of migration and its politicality. Autonomy of migration refers to 'social and political movement in the literal sense of the words, not as a mere response to economic and social malaise' (ibid.: 202). In their understanding, escape, and thus the autonomy of migration, comes before practices of control. As a result, they cannot limit their analysis to a detailed

unpacking of the social and political process of securitizing, but are required to incorporate the political and social acts of migration as an immanent part of the set of practices taking place. In doing so, the analysis brings migrant action on site, socially and politically; action that in securitizing analysis remains largely outside of the political scene as that which is managed, curtailed, stopped. When it connects escape and autonomy to enacting claims to rights – whether explicitly or implicitly – and a quest for political recognition, the analysis works on the interstices of citizenship and security, on the connections between security techniques and the social and political actions of migrants.[3]

When those 'targeted' by security practices take on political being, securitizing ceases to be a process that simply acts upon sites, objects, and subjects, turning them into risks, dangers, or threats. Enacting themselves as citizens, subjects do not simply react to security policies but generate a struggle over rights and the legitimacy of their 'voice' and 'presence'. In such situations, securitizing cannot be taken on its own terms, that is, as the realization of its own logic. Security practice finds itself in a political scene partly created by those whom it seeks to control. In these situations, renegotiations and disruptions are as much part of the securitizing as the dominations and the exclusions.

An interstitial analytics thus leads to considering securitizing not as a simple technique of governance but as a *political process* (Guillaume 2007; 2009: 82–84) that configures citizenship but is also itself being configured by the political acts of the 'securitized': sex workers, immigrants, religious and ethnic minorities, the socially deprived and disadvantaged, and so on. For example, sex workers in Europe enact mobility despite the restrictions imposed through external border controls, labour market regulation, and the criminalization of sex work. In doing so, they disrupt established categories of femininity and citizenship by demonstrating 'the key role non-citizens [and formal citizens with lesser rights] play in a remaking of the public and private spheres, rearranging of the markets and labor relations and in interrupting the logic of the political rooted in the dichotomous forms of belonging' (Andrijasevic 2010). Without necessarily mobilizing collectively around a set of rights claims, they negotiate economic conditions, securitizations of borders, criminalization of the profession, personal projects, and rights and duties with institutions, other citizens and non-citizens. In their everyday activities, they enact themselves as subjects with rights, who are part of social and political sites, and who stir instituted conceptions of what counts as acceptable practice. To take a few other examples, Ákos Kopper (in this volume) argues for including the appropriation of surveillance technology by those surveilled in order to understand how citizenship rights are enacted in the understanding of surveillance. Flora Burchianti (in this volume) illustrates how in securitizing sites and situations pertaining to the management of undocumented migrants in France and Spain, alternative forms of being political are enacted at the local and city levels, resulting in the re-appropriation of the equalitarian and universalizing legacy of citizenship. Drawing on observations that in legal practice human rights have become increasingly mixed with citizenship rights, Engin Isin (in this volume) argues that the opposition between securing

citizens (citizen security in *raison d'État*) and securing humanity (human security), which has been central to much of the debate seeking to capture the critical dimensions of citizenship as well as security, has become problematic. Subjects increasingly enact themselves as new citizens on the grounds of human rights in national, transnational, and international contexts of insecurity.

The interstitial between security and citizenship is not a neutral methodology that simply tries to grasp a wider spectrum of politics. It is biased in that it draws attention to situations in which people are politically oriented towards one another rather than excluded from political sites. By including the critical tradition of citizenship, the interstitial that we propose has an immanent tendency to moderate the analytical focus on radical exclusions and alienations taking place at the interstices between security and citizenship. The modulation consists in taking into account those who are often presented as radically excluded from political being, subjects who are acting politically and thus are part of the politics of insecurity and citizenship (as in Andrijasevic's analysis of sex workers or Nyers' analysis of the political action of irregular immigrants). For those who are interested in bringing out the radical exclusions that securitizing and citizenship as an institution of domination produce, the interstitial we introduce, therefore, distracts from the critical stake. It refocuses the analysis by including how those subjected to securitizing and the institution of citizenship also enact rights, claims to justice, etc. As a result, the 'excluded' are – at least partly – included as acting within rather than without the politics of justice, the formation of rights, and the constitution of political subjectivity.

This analytical focus does not mean that many enactments of being political at the interstitial are not precarious, limited, and unsuccessful. At issue is not that people claiming the right to have rights are precarious or successful. Neither do we seek to hide from Hindess' (2009: 199) – and others' – warning that the 'western idiom of citizenship' might not be the most adequate when engaging with the promotion of 'solidarities that cut across the territorial boundaries of states'. Rather, by foregrounding the interstitial as the analytical issue, the conjunctive as well as disjunctive political work taking place within securitizing sites, moments, and histories can be read simultaneously. It is a research agenda that focuses on (a) how security and citizenship are intertwined and (b) how in this intertwining alienating effects are not only reinforced (conjunctive work) but also challenged (disjunctive work). In other words, this research agenda aims to address the absent presence of the political in security studies by mobilizing a central concept from the modern political tradition, while guarding against a romantic or nostalgic embracing of universal and critical dimensions of citizenship.

Notes

1 The main exceptions to those approaches sharing the view that insecurity is not simply given, but politically enacted, are the security studies developed by Ken Booth and Richard Wyn Jones, drawing on the Frankfurt School of Critical Theory and human security. For them, security claimed in the name of the individual or community, rather than the state, as well as security claims drawing on human needs rather than

state sovereignty, are practices of resistance and contestation supporting emancipatory projects, rather than a conservative reiteration of the status quo (Booth 2005, 2007; Mcsweeney 1999; Wyn Jones 1999; Sheehan 2005). For other studies which seek to create space for an analytics of resistance in security studies see for example, Weldes *et al.* 1999 and Amoore and De Goede 2008.

2 Taken together, Nyers' work on irregular migrants, refugees, and citizenship combines an analysis of governmental techniques and the enactment of politics by those subjected to them. See Nyers 2006a, 2006b, 2006c, 2008; Moulin and Nyers 2007; and Nyers' chapter in this volume.

3 Their analysis does not limit itself to rights claims, however. They look at various dimensions of how migrant autonomy is enacted, and can be interpreted (Papadopoulos *et al.* 2008). In an interesting passage they introduce limits to understanding the enactment of political being through claiming rights and making oneself publicly visible: 'rights function as differentiation markers, establishing a clear link between the person and his/her origins, the body and identity. And this is precisely what migrants want to avoid when they are clandestine on the road [. . .] What migrants really want is to become everybody, to become imperceptible' (Papadopoulos *et al.* 2008). At this point, thinking political being through the concept of 'autonomy' opens a debate about the limits of using citizenship to bring a wider spectrum of politics into securitizing analyses. We have no space to engage the value and limits of using citizenship versus the politicality of becoming invisible here, but the general point is important. Their analysis thus also shows that choosing citizenship comes with strengths and limits, and alternative choices – that open politics differently – are possible.

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PART I

Changing citizenship regimes

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3

LIBERATING IRREGULARITY

No borders, temporality, citizenship

Peter Nyers

No one is illegal! Status for all! Freedom of movement! No borders! These are not just slogans plastered on posters and shouted at marches and rallies. They are new rights claims that are capturing the political imagination of the migrant rights movement and beyond. Like many new rights claims they appear impossibly ambitious, radical, even audacious: they promise to address global inequalities, challenge the securitization of migration, expand the beneficiaries of social citizenship, strengthen transnational solidarities, and remake the political community according to 'cosmopolitan' norms, or norms that have yet to be named. Like many new rights claims, the demands around 'no borders' have, perhaps not surprisingly, been criticized for being utopian, naive, and dangerous. They are out-of-step with the agendas of most mainstream discussions of political affairs. The irregularity of these new rights claims do not, however, diminish their potency, nor their ability to mobilize the imagination for a different kind of world – 'a world without border controls, identity papers, fictions of national belonging, death and destruction over abstract geographies' (Fernandez *et al.* 2006: 467).

If 'no borders' is an irregular claim to be making in the current political climate, then I would posit that it is also one made by irregular citizens. Perhaps this, too, is an audacious claim. The term 'irregular' is a strange choice to pair with 'citizen' and is more commonly associated with the discourse of security: irregular migration, irregular financial transactions, irregular warfare, even irregular weather patterns have all become part of the standard lexicon of securitization discourses. The contested status of the irregular has become a particularly important site of contemporary political struggles around citizenship, mobility, and security (Squire 2011). What I call 'irregular citizenship' is an attempt to describe some of the complex politics and paradoxical subjectivities that emerge from the citizenship/mobility/security nexus. Why 'irregular citizenship'? Why not conduct a more traditional analysis of the various subjects classified in terms

of their citizenship (migrant rights activists, lawyers) or non-citizenship (refugees, undocumented migrants)? I introduce the concept in order to describe some political struggles around citizenship during a time when the dividing line between self and other is determined less by a citizen/non-citizen distinction, and more according to a regular/irregular or authentic/inauthentic distinction as it is mapped onto the figure of the citizen.

As I have argued elsewhere (Nyers 2006b, 2010, 2011), there are multiple forms of irregular citizenship. Broadly speaking, irregular citizenship names two countervailing processes: the unmaking of citizenship by state and governmental forces on the one hand, and what I call the 'self-unmaking' of citizenship, on the other. The first form of irregularity involves undercutting the rights, duties, and obligations of citizenship. Unlike unmaking citizenship through formal denationalization, irregular citizenship is primarily achieved through informal, extra-legal, and unofficial means. Citizenship is not revoked so much as made irregular. It is unmade by being made unworkable. The second form of irregular citizenship is somewhat different, recognizing that irregularity is not only a condition of abjection, precarity, and rightlessness. It, too, describes a form of citizenship where rights, duties, and obligations are not operating according to scripted norms. The crucial difference is that this form involves acts of self-irregularization whereby national citizenship is unmade in favour of other forms of political belonging and identity, and modes of enacting rights, duties, and obligations. In this form, irregularity is liberated from its negative overcoding. Like other recent theorizations of exodus (Virno 1996), escape (Papadopoulos *et al.* 2008), and flight (Deleuze and Guattari 1980), this form of irregular citizenship involves practices which are positive, creative, experimental, and generative of new worlds.

I argue that the second form of irregular citizenship – so called 'self-unmakings' – enables us to perceive how some contemporary enactments of 'no borders' open new worlds and new modes of being political. While irregular citizens may or may not be citizens of the state(s) in which they reside, this ambiguity underscores the temporality of this form of political subjectivity: it is contemporaneous with state citizenship. That the 'regular' and 'irregular' are coeval with one another should not, in my view, be a cause for anxiety but, rather, be seized as an opportunity to investigate political projects – such as 'no borders' – that are similarly coexistent with more established modes of being political. In this way, irregular citizens push the boundaries of what is possible politically. Their acts of citizenship (cf. Isin and Nielson 2008) force us to ask not *when* a new world – a world without borders – will emerge, but to instead investigate already existing (if only precariously so) and highly situated (though globally distributed) enactments of 'no borders'. This demands an interrogation of the ways in which 'no borders' unfold temporally and an appreciation of how 'no border'-time can be contemporaneous with border-time. To illustrate empirically what I mean by liberating the 'irregular time' of the 'no border' rights claim, I investigate how the politics of 'no borders' is being enacted in the context of Sanctuary City project in Toronto, Canada. I argue that what is at stake politically here is the contestation of temporal borders that seek to

restrict both circulation and movement within social space, and the self-determination of subjects and communities – that is, the unfolding of life itself.

The time of 'no borders' is . . . now!

To date, the critical scholarship on borders has been very good at asking the basic critical question, 'borders for whom?' The answers provided to this question make it clear that the experience of the border varies considerably if one is a tourist, a business class traveller, a skilled immigrant, a refugee, a 'trafficked' person, a 'temporary' migrant worker, or an undocumented migrant. The critical literature has extensively documented how the experience of the border differs according to the traveller's race, gender, age, religion, country of origin, profession, sexuality, and so on. There is a broad appreciation of what Balibar (2002: 79) calls the 'polysemic' nature of borders. At the same time, however, we rarely encounter analyses of 'actually existing' no-border projects. An important reason for this lacuna, I argue, can be found in two intertwined expectations about the temporality of 'no borders': the expectation of permanence and the assumption of linear time. The study of 'no borders' has been doubly constrained by two problematic temporal assumptions.

In the first place, as a political project, the success of 'no borders' is normally evaluated for how it brings about a permanent change in the way space and territory are conceived and experienced in relation to the sovereign state. While some advocates of 'no borders' predict that such a change is inevitable (for example, Hayter 2000), the consensus is that the time for 'no borders' is not now. Moreover, when the question of temporality does enter into the debate about 'no borders', it appears in the form of linear time: 'no borders' appear as a nostalgic memory of a pre-sovereign age, or as a utopian goal for a progressive future. In each case, the reference to 'no borders' is to a time other than the present – either the past or the future. Rarely does analysis focus on 'actually existing' no borders.

The reluctance to imagine 'no borders' as coexisting in a world of restrictive and securitized state borders can be likened to what Johannes Fabian calls 'allochronism' or 'the denial of coevalness' (quoted in Hindess 2008: 203). What is worrying in the denial of temporal coexistence is not so much the effacement of ways of enacting subjectivity or community other than that provided by the theory of state sovereignty. There is no lack of imagination about past and possible futures. Instead, the concern lies more with how the assumed present (in this case, state borders) takes on greater moral and political significance than formations from the past, potential futures, or – the focus of this chapter – coexisting presents.

Partitioning a new time from the existing temporal order of the sovereign state can be a disquieting proposition, generating considerable social anxieties. The idea that 'no borders' can be contemporaneous with the border-time of the state opens the way to investigate how new rights claims about no borders are being enacted. In an essay called 'The time of rights', Bonnie Honig provides some helpful guidance on how to assess a new rights claim such as 'no borders' or 'freedom of movement' in relation to temporality. Honig doubts that the 'chrono-logic' of linear time

can account for all the complexities involved in new rights claims. This is because they are limited to assessing these claims in terms of their 'amenability to being subsumed under existing constitutional or universal categories' (2008: 90). Honig argues that new rights claims 'do not necessarily demand mere inclusion in a previously stabilized order. They may. *But they may also demand a new world.* They may unsettle previously existing categories of right' (2008: 90; emphasis added). The questions of interest to Honig are not so much the substance of these new rights, or even the subject capable of enacting these new rights. Rather, she is interested in discovering 'the worlds potentially opened or closed by these rights' (2008: 90).

A world without borders would, therefore, require some creative re-imagining of the basic categories and norms underpinning political systems and social orders across the globe. The enormity of this challenge cannot be understated. As Nick Vaughan-Williams (2009) argues, the border is not a thing – a noun; rather it is a verb, a doing – a practice. It does things; it works. What does the border do? It creates the domestic and international spheres of law, community, and political identity. Borders make it possible to speak of 'international' and 'domestic' politics, 'citizens' and 'foreigners'. Borders, moreover, establish temporal as well as spatial distinctions. The border line between the domestic and international is also a temporal border of history and progress within the state and timeless anarchy existing outside the state (Walker 1993). Borders have penetrated the social order so thoroughly that they have become embodied in the everyday life of cities, workplaces, households, social service providers, community centres, and so on (De Genova 2005). Indeed, the bordering practices of the state are so ubiquitous that they are also at work in the modern process of political subjectification, of making citizens. As Vaughan-Williams explains:

> Like the modern sovereign state, the modern political subject is also conceived as being fundamentally bordered in terms of autonomy before the law. Hence, discourses of rights and responsibilities presume the subject of contemporary political life to be an individual whose status is clearly demarcated: a citizen. Seen in these terms, the concept of the border of the state is central to the production of citizen-subjects whose identity derived from citizenship provides a series of convenient answers to difficult questions such as Who am I? Where do I belong? What should I do?
>
> *(Vaughan-Williams 2009: 3)*

The significance of the demand of 'no borders', therefore, moves beyond unsettling the space of the border that separates a state from other states. It is a demand that calls for a fundamental transformation in theoretical, social, psychological, and cultural behaviour and norms. As a result, the political stakes of no borders are very high. The demand of 'no borders' calls into question the conditions of possibility for some of the most basic categories of modern political life: namely, the nation-state, the international system, and citizenship. The demand for 'no borders' radically challenges modern understandings of the subject and location of the political.

Indeed, some have gone so far as to liken the call for no borders to an invitation to states to self-immolate:

> In order to exist as a sovereign entity, the nation-state must maintain the ability to control its borders and determine the composition of its population. 'No borders,' as a demand on the state, would thus effectively be a demand that the nation-state give up its own condition of possibility, and is thus a demand that can only be effectively utilized if the nation-state is assumed to be suicidal.
>
> *(Fernandez* et al. *2006: 473)*

Time, the other border

In order to be 'open to' other times and spaces of being political, as Honig suggests, a critical questioning of the spatial bias of 'no border' politics is in order. The idea that there is a spatial bias in 'no borders' debates may seem to be counter-intuitive. After all, 'no borders' arguably involves the elimination of space in favour of temporality. Territorial boundaries dissolve in favour of movement and flows, or what one group of authors call 'unfettered mobility for individuals and collectives, the dissolution of all borders that separate, isolate, contain, limit, enable violent forms of extraction and injustice, and impede political imaginings and futures' (Fernandez *et al.* 2006: 466–67). Nonetheless, a spatial bias arises from the overwhelming focus placed on opening up the territorial border of the state to increased flows of people from all backgrounds and countries of origin. This is, of course, a necessary focus, but the result has been a debate about 'no borders' that is largely focused on the legal framework that creates and sustains (inter)national borders. This focus on legality has the effect of pushing the debate to the *space* of law, established by a territorial understanding of the (inter)national border. What emerges, therefore, is a spatial bias to debates about no borders. The spatial bias, it should be noted, is one that spans the various ideological positions taken in the debate on no borders:

> The [Right] employs a strategy of strengthening laws against border crossings so as to maintain unsanctioned and non-remunerated labour flows in the service of capital. At other times, the Right demands an end to borders to open up an unfettered frontier for free market domination. From the Left, we hear a call to legalize and compensate labour that crosses borders without sanction. There is also a Leftist impulse to do away with any borders altogether, including that of the law, which often stands as a border against the potentialities of non-exploitative production. Thus, it could be argued that the discourses of globalization are predominantly based on addressing what are viewed as potential spatial hazards – either to Empire or the Multitude – produced by the growing and impending irrelevance of geopolitical borders.
>
> *(Fernandez* et al. *2006: 477)*

The critical focus on the spatial assumptions, iterations, and practices of laws and regulations at all levels of governance is obviously warranted. My point is that

non-territorial dimensions are significant also. The deterritorialization of controls and the ability of the border to operate at a distance to anticipate, channel, and block global movements constitutes a major innovation in border controls. And yet, the spatial bias has the effect of both displacing these transformations from the arguments, strategies, and vision of 'no borders', and also leads to a misreading of the challenges – conceptual, theoretical, and practical – posed by contemporary transformations in border control, security, and surveillance.

Despite the hyper-securitized rhetoric that surrounds the topic of border control, these policies are similarly hyper-conscious of the significance of circulation, speed, and movement in the transportation hubs of air, land, and sea travel. States have not approached the problematic of border security in an era of increased global connectivity and transnational flows by closing the border or viewing it as a barrier. Rather, the border has been reconfigured as a space of flows governed by rules and technologies that distinguish between 'desirable' travellers (for example, citizens and permanent residents) and 'undesirable' travellers (for example, temporary visitors categorized according to the logic of risk) (Salter 2004; Vaughan-Williams 2009). Thus, while securing the territorial border remains a politically significant issue in international relations, the actual practices and techniques of border patrol have moved well beyond policing the territorial 'border line'. So much of contemporary border control and surveillance take temporal processes – speed, circulation, movement – to be of utmost significance. Today, border controls involve technologies of risk management (Neal 2009), biometric controls (Muller 2009), logics of pre-emption and anticipation (de Goede 2008), and policing the future (Bigo 2006). Borders are being unbundled, disconnected, and de-linked from national territories. Borders are moving, active in places that are far removed from the formal territorial borderlines of the state. Louise Amoore (2006: 338) illustrates this process through the example of the biometric border, which she characterizes as a 'portable border', that is, 'carried by mobile bodies at the very same time as it is deployed to divide bodies'.

Another important perspective from which to interrogate the temporality of borders is the idea that the border is a lived experience – that is, how border controls affect the unfolding of life itself by variously restricting or liberating opportunities for self-determination, autonomy, and freedom. The act of crossing a territorial border also involves crossing a temporal border, a division between the time before the crossing and the time after the crossing. Understanding this temporal dimension of border crossing is crucial to coming to terms with the societal response to controls and surveillance. This response is multiple and varied, to be sure. On the one hand, temporal strategies have been crucial to securing acceptance to enhanced controls. Didier Bigo argues that the ability of contemporary border controls to maintain the pace of travel, lessen the feeling of duration, and mask the visibility of controls has been central to their acceptance.

> The 'advantage' of smart surveillance is that, for some travellers, the 'normalised' ones, the impression of control is very light, as they are not stopped and they wait only for a minimal amount of time. The 'unwanted' ones, the

> 'ones' who are categorized and profiled as potentially dangerous are on the contrary under 'discreet' surveillance all along their travel and are thus continuously 'traced'. Some of them will be put in detention, asked questions about their motivations for travel, judged along the category they pertain for the administration as risk profile. Their behaviour will be anticipated, either visually or through software profiles that deliver prediction through actuarial statistics. The control will then be highly focused on some groups and will be de facto relaxed for the huge majority of these travellers who are not stopped, but who nevertheless remain under surveillance.
>
> *(Bigo 2011: 67)*

Bigo's insight here is that for most amongst the 'desirable' travelling class, the majority of border controls and acts of surveillance are not experienced in a negative way. Instead, they can be experienced as a form of freedom. Freedom is found in speed, circulation, movement, and – a crucial point – the feelings of comfort that lessen the perception of duration.

The lived experience of temporal borders is much different for travellers who do not possess the documentation, citizenship status, or nationality that enables smooth passage across borders. For example, migrants with precarious legal status find it increasingly risky to exit the country of their unauthorized residence and work, lest they not be able to make the return trip. Susan Bibler Coutin argues that from the perspective of the undocumented and precariously documented migrants, the national territory has taken on a 'carceral quality' and has itself become a 'zone of confinement' (2010: 200). The way that the border follows the life of people with precarious legal status has significant implications for how values such as autonomy and self-determination are experienced in self-named liberal democracies.

> Being able to imagine a future with oneself in it (even if, at the time of imagining, a person is content with living in the moment), feeling that one can anticipate and take risks, and have a sense of possibility, these are important aspects of human experience and subjectivity. Immigration controls and the relationships that they generate undermine these and can force people to live in an eternal present . . . Time, however, does not stop: relatives may die without being visited, children become too old to be granted the right to be with parents and carers, opportunities are missed. Such consequences have intensified as states have fortified their territorial borders and curtailed the ability of people to move out of national states in which they live their lives as 'illegal'.
>
> *(Anderson* et al. *2011: 77)*

This temporal dimension of contemporary border control is rarely remarked upon. Yet, the performative enactment of 'border-time' is central to understanding how life unfolds for various classes of citizens and non-citizens. The freezing of life opportunities, through the enduring temporariness that precarious status affords, runs across a range of legal and extra-legal statuses as states have encouraged policies

of temporary worker programmes that legalize the precarious and temporary status of undocumented migrants.

Finally, it must be said that for people with no, or precarious, legal status their labour-time is already one 'without borders'. The long hours involved in the type of work that non-status people do – agriculture, the service/hospitality industry, construction – exists precisely because of the restrictive spatial borders that produce their illegality. For example, a study of undocumented live-in care workers has described their work as requiring 'permanent availability' (Anderson 2000: 41). Fernandez *et al.* similarly emphasize the way the border has ceased to exist in the realm of temporality that separates labour-time from non-labour-time:

> With capital now relying on a system of production that includes not only 'work time' but also the time that precedes and follows it – the time of social cooperation – the borders between time, life, labour have become irrelevant and the terms tautological.
>
> *(Fernandez* et al. *2006: 478)*

Irregular times

How have 'no border' politics responded to contemporary border controls – borders that move, borders that are temporally ubiquitous, borders that operate in unexpected places, borders that seek to control the unfolding of life itself? While the demand for 'no borders' is often couched in spatial and territorial language, there is an increasing appreciation, by both migrant rights activists and analysts, of the need to address the temporal quality of border controls. For example, migrant rights activists have responded to the temporal dimensions of contemporary border controls in their anti-deportation campaigns. Indeed, temporality has emerged as a key 'site' of contestation and resistance through the enactment of irregular time at the security/citizenship nexus. Consider a common strategy used to fight a deportation: slow down the speed of removal. This can be done both through legal means (for example, lobbying politicians, legal appeals) and through tactics that stretch the boundaries of legality. Examples of the latter approach include direct action 'delegation visits' to the bureaucrat – Butler's (2004: 56) 'petty sovereign' – with the authority to delay the deportation. Either way, delaying the removal can allow other dimensions of the campaign to take root (for example, building community support, letting the legal appeals work their way through the system). The state's deportation apparatus desires speed and a smooth removal process, but is stymied by the temporal politics of anti-deportation activists that introduce slowness and friction into the process (Nyers 2006a: 54–5). In this section, I will analyse this temporal dimension of no border politics through two examples: 'regularization' of status campaigns and Sanctuary City movements. These initiatives can be evaluated in many ways, but my concern is with the extent to which they meet Honig's challenge to resist the linear time of the state, to embrace coevalness, and to actively create a 'new world' without borders.

Time and regularization

Joseph Carens (2010) has recently reinvigorated the debate over 'no borders' by highlighting the temporal dimensions of this claim. In an essay originally published in the *Boston Review* called 'The case for amnesty: time erodes the state's right to deport', Carens argues that amnesty or regularization programmes constitute a kind of 'no borders' after the fact. For Carens, the debate over amnesty is actually a debate about time. The issue of space has been settled as the territorial borders of the state have already been crossed. Carens thus begins with the reality that undocumented people already live, with established lives and livelihoods, within the borders of a state. How, and under what conditions, this life can unfold temporally is what is now at stake. Hence, time is what is at issue, politically.

Carens approaches temporality in a number of ways. Time, he says, can be viewed as a number: how long has the migrant resided in the polity? At a certain point, membership becomes a matter of social fact, not legal status. Carens reasons that five years of residency is sufficient. And yet, despite its reasonableness, this number is surely arbitrary and contestable. But this arbitrariness, I believe, only proves the intensely political (not moral) grounds upon which acts of amnesty operate. In addition to the durational quality of time, Carens also interrogates temporality in substantive terms: how have you lived your life? Have you made connections to the community? Have you respected the rule of law and lived without committing a criminal offence? How well have you 'integrated' into the community?

Carens' proposal allows for 'no borders' in the form of regularization based on time. It has considerable merits and, if successfully implemented, such a proposal would make an enormous difference to the lives of non-status people and also constitute a major victory for the migrant rights movement. Carens' proposal is also innovative in starting from a position of coevalness: that is, the social fact of unauthorized border crossings and the fact that migrants, despite their lack of formal status, nonetheless live, work, and are a dynamic part of the communities in which they reside. But this recognition of coexisting temporalities is quickly transformed into the linear time of official state discourses. He calls for a linear transition from non-status to status, with only the question of temporality (understood numerically and substantively) separating the two. With citizenship as its end goal, the model is quite amenable 'to being subsumed under existing constitutional or universal categories'. There is little sense that this right claim is a 'demand for a new world' and one that 'unsettle[s] previously existing categories of right' that Honig (2008: 90) suggests lies at the heart of new rights claims.

Time and sanctuary

Like Carens, others, too, are experimenting with 'no borders' from a temporal perspective. For example, the revival of the tradition of 'sanctuary cities' – which has seen cities remake themselves into sites of protection and safety for refugees,

asylum-seekers, and migrants of various degrees of formal status – has been a notable development in the migrant rights movement. In my view, sanctuary cities constitute one of the most interesting enactments of temporal 'no borders', precisely because of their irregular placement in time and space. Within sanctuary cities, the claims of 'no border' and 'freedom of movement' are not directed at the expected sites – the territorial borderline of the state – but to cities, towns, and municipalities. The aim of these campaigns is to import an ethos of sanctuary into municipal policy. When successful, the temporal qualities of sanctuary take on added significance. Instead of a spatially fixed claim of 'sanctuary' made from within the 'sacred' space of a church, temple, or mosque, sanctuary cities consist of a proliferating number of 'secular' spaces of sanctuary, such as schools and anti-violence against women shelters. As a result, the freedom to move between these sites – indeed, to move unfettered in the city – becomes the key political stake.

There are important differences between how Sanctuary Cities are envisioned and enacted. One major issue is the degree to which a Sanctuary City retains the problematic distinction between different classes of migrants: asylum-seekers, refugees, migrant workers, undocumented migrants, and so on. For example, the official discourse of the City of Sanctuary movement in the UK is to encourage the development of a culture of hospitality that is welcoming to asylum-seekers and refugees. However, this attachment to state classifications of mobility risks reproducing a hierarchical distinction not only between citizens and non-citizens, but different classifications of non-citizens. It also sets up a hierarchical relationship between those capable of providing hospitality and protection and those who are the passive recipients of such acts of citizenship.

Of course, those seeking sanctuary may actively defy the expectation of passivity. Critical of the way that the dominant framing of sanctuary sets up the asylum-seeker or refugee as someone who is constantly 'waiting' (waiting for hospitality, waiting for recognition, waiting for status, etc.), Squire and Bagelman argue that the temporality of 'taking' provides a different insight into the politics of sanctuary: 'Those taking sanctuary have a voice in the movement in the present, rather than having to wait to be spoken for' (Squire and Bagelman 2012: 160; cf. Nyers 2003, 2006a). They note that, despite the official discourse, in practice 'it is impossible to draw clear-cut lines between migrants and those seeking sanctuary' (2012: 159). This is due in no small part to the temporality of sanctuary cities, which, unlike the stasis or spatial fixity that defines traditional sites of sanctuary (churches, for example), diffuse the ethos of sanctuary through the city. This diffusion necessitates mobility and movement on the part of the providers and the recipients of sanctuary. Squire and Bagelman describe the temporality of sanctuary in this context as 'mobile enclaves of sanctuary' (2012: 156). These mobile enclaves include, for example, community cafés, community gardening projects, and 'conversation clubs'. They not only problematize and disrupt who is the host and who is the guest, but also challenge policies and practices that limit sanctuary to specific places. Instead, sanctuary is diffused in various spaces throughout the city, thereby liberating the non-citizen's right to the city.

Liberating life in Sanctuary City

What would an actually existing 'no border' that is coeval with state borders look like in practice? How could such a project enact practices that are critical of 'existing constitutional and universal categories' and at the same time irregularize the prevailing norms and practices associated with the sovereign political order? The mobilizations around the idea of a Sanctuary City that has emerged in Toronto, Canada provide some provocative answers to these questions. The primary aim of this campaign is not to regularize non-citizens into citizens or to encourage welcoming attitudes and social practices. The Sanctuary City campaign in Toronto has a different aim: to re-take the city as a site of 'no borders'. This re-taking is not unlike Squire and Bagelman's distinction between 'waiting' and 'taking', but the ethos that informs this enactment of sanctuary is different. Instead of the ethos of hospitality of the UK campaigns, there is an ethos of solidarity with the struggles of non-status persons. Thus, the Sanctuary City campaign is also referred to as the Solidarity City campaign (Nail 2010: 159). This solidarity is found not only between service providers and grassroots groups, but also through working in explicit alliance with immigrant communities in the city where precarious status is a defining concern. A form of 'irregular citizenship' is enacted in these contexts; equality between citizens and non-status persons is the starting point in this campaign, and not just the end goal. As we shall see below, the campaign to re-take the spaces and times of the city away from the control and surveillance of border enforcement has had important successes. At the same time, however, and as I have argued elsewhere (Nyers 2003), acts of taking the political are subject to a sovereign power that is also constituted through a kind of taking-power. The very success of these kinds of takings can become a resource for the statist power to re-take the time of the border and re-affirm the borders between citizen and non-citizen, desirable and undesirable, worthy and unworthy.

The idea for a Sanctuary City is inspired by both the successes and limitations of the 'Don't Ask, Don't Tell' (DADT) campaign organized by No One Is Illegal-Toronto (NOII). The DADT campaign was launched in Toronto in 2004 with the aim of providing access to all city services without the fear of deportation, detention, criminalization, denial of services, or indebtedness. The campaign lobbies for a two-fold commitment from the city of Toronto: that the city will prohibit its employees from enquiring about immigration status when providing services ('don't ask'), and, should such information somehow come to light, to not report non-status migrants to either police or immigration officials ('don't tell'). While DADT policies do not provide migrants with formal status, they do allow a person with little or no formal status to access many of the rights of 'social citizenship' (for example, health care, education, emergency services). Activists within the campaign describe DADT as a form of 'regularization from the ground up' (Mishra and Kamal 2007).

After its launch in 2004, the DADT campaign quickly branched into a number of sub-campaigns, each of which targets a site of service provision in the city where

people with precarious status live, work, or congregate. These sub-campaigns include: Education, Not Deportation (schools and universities), Food For All (food banks), Health For All (hospitals and health centres), Shelter|Sanctuary|Status (anti-violence against women spaces). There have been some significant victories in these campaigns. The Toronto Police Services Board and the Toronto District School Board (both the largest in Canada) have both adopted DADT policies. Anti-deportation campaigns have emerged at universities and schools to stop the deportation of fellow students. Migrant women and anti-racist organizers with the Shelter|Sanctuary|Status Campaign achieved what is perhaps the most concrete contestation of temporal borders over movement within the city. After two years of rallies, marches, press conferences, delegation visits, and other actions, the campaign successfully convinced the Greater Toronto Enforcement Centre (GTEC) of the Canadian Border Services Agency (CBSA) to issue directives prohibiting their agents from entering or waiting outside shelter spaces for women fleeing violence. The policy also stated that enforcement officials would not call to make inquiries about women living in these shelter spaces.

How can these campaigns and their successes be measured against Honig's criteria for new rights claims that 'demand a new world' and unsettle 'previously existing categories of right' (2008: 90)? In my view, the demands and claims made in the campaign for Sanctuary City speak to a world without borders within the space of the city. Within the city at least, the borderlines between status/non-status, legal/illegal, citizen/non-citizen could be dissolved. Indeed, unlike Carens' proposal for regularization or the City of Sanctuary movement in the UK, the shift from irregular to regular status is not the primary goal of the Sanctuary City. While recognizing the strategic importance that formal regularization has for individual migrants and the migrant rights movement as a whole, the Sanctuary City model is itself ambivalent about official recognition of irregular subjects for the purposes of transforming them into regular ones. Instead, the Sanctuary City model works with irregularity as a productive site for creating new spaces and temporalities for the political. As one activist with NOII puts it: 'It is about using the site of exclusion, the site of tension, to bring people together and create the systems they need' (S. Hussan, quoted in Nail 2010: 160). Embracing the friction of irregularity allows for a radical political stance to emerge in relation to political subjectivity and community. In a way that echoes Honig's 'demand for a new world', activists within the Sanctuary City movement speak boldly about their aim to remake the city by liberating it from the state's deportation apparatus.

> By challenging immigration status, we make it possible to consider a world without war, economic exploitation and exclusion – a new world. But we need the idea of sanctuary to mean something to people first; we need people to think and feel differently about citizenship regimes and status altogether. Once ideas of race, citizenship, or immigration status mean something different to people, we can build the city we want.
>
> *(F. Chowdhury, quoted in Nail 2010: 155–56)*

In this way, the work of the Sanctuary City is to:

> de-legitimize the role of the state because we do not wait for the government to change, rather we struggle to create a just city for ourselves. This is the primary reason for our success – we don't wait for our strategies to be approved or recognized by the government before we go ahead and try to implement it on the ground.
>
> *(F. Chowdhury, quoted in Nail 2010: 155)*

In this way, Sanctuary City is much more than a set of policies that the city of Toronto takes on and implements to various degrees of effectiveness. It differs from the DADT campaign in several ways, not least with regards to the issue of visibility. DADT policies operate according to a logic of invisibility and silence (don't ask . . . don't tell). If, as Randy Lippert (2010) has argued, faith-based sanctuary campaigns operate according to a logic of 'exposure' and 'concealment', then a similar dynamic can be observed with the DADT campaign: the city exposes itself as a sanctuary space, while still sustaining the concealed or anonymous life for undocumented migrants, but one with social benefits. By contrast, the Sanctuary City seeks to realize the 'no borders' rights demand of 'freedom of movement' within the context of the city. To realize this freedom, simple access to what amounts to the rights of social citizenship (health care, education, housing, etc.) is only one dimension of the issue. Liberating non-status people from the fear of surveillance, apprehension, detention, and deportation is the other. As one organizer with NOII describes it, the campaigns associated with Sanctuary City have as their goal to 'liberate hospitals, food banks, schools, community centres, workplaces, and neighbourhoods from border enforcement' (F. Miranda, quoted in Nail 2010: 151).

Just how can a city be liberated from border enforcement? Perhaps unexpectedly, the answer in this case is through new bordering practices. A key strategy in the Sanctuary City campaign has been to find ways to enact borders and controls on the movements and activities of CBSA agents. As agents of the federal government of Canada, CBSA officials are not under the jurisdiction of the city of Toronto, making the prohibition of CBSA officers from entering schools and anti-violence against women shelters an important achievement. It represents a successful liberation of time and space for migrants with precarious status. Spatially, Sanctuary City allows for the sites of social service provision to be accessed by migrants without fear of deportation. Temporally, it allows migrants to circulate within the city, also without fear of surveillance and apprehension. This includes liberating one's sense of being able to move freely through the city in order to make routine trips to work, school, hospitals, food banks, homeless shelters. It also liberates the joyful aspects of life; for example, being able to enjoy public parks and festivals, to shop in markets and malls, to eat in restaurants with friends, and so on.

Freedom of movement in the Sanctuary City, therefore, requires that certain kinds of bordering practices are enacted within the space-time of 'no borders'. The ability of CBSA agents to circulate, move, and situate themselves within the life

worlds of non-status migrants is curtailed. In effect, a border is enacted as a condition under which this 'no border' project operates. At the same time, however, the risk of taking the city in such a public manner is that sanctuary becomes 'exposed' to acts of re-taking by sovereign powers. In the case of Sanctuary City, this was accomplished when the national leadership of the CBSA overturned the GTEC's local policy. Citing its 'statutory obligations' to enforce deportation orders, the CBSA issued a new directive in February 2011 that reasserted the authority of GTEC agents to enter any space within the city of Toronto to enforce removal orders (Weese 2011). While the directive states that cases involving women's shelters require 'heightened sensitivity', it nonetheless affirms that border enforcement officers have a duty to investigate. In this way, the right to re-impose the state border is asserted as an 'obligation'.

Conclusion

Liberating 'no borders' from the expectation of permanence and linear time has allowed for a critical examination of 'actually existing' no borders – that is, experiments with freeing up the mobility and flow of individuals and groups that do not fit with the traditional accounts of 'regular' state citizenship. As we have seen, the new rights claim of 'no borders' provokes some fundamental rethinking of the location of power and resistance. I have suggested that the contemporary character of border controls demands that we start to rethink power and resistance in temporal terms. A key part of this rethinking is the recognition that engagements with 'no borders' can involve acts of re-bordering. This was the case in the Sanctuary City movement in Toronto in that the contestation of temporal borders results in political paradox for the 'no borders' rights claim: the liberation from borders in their temporal form involves acts of re-bordering to restrict the circulation and mobility of representatives of the border apparatus of the Canadian state (that is, CBSA agents).

The phrase 'no borders' is usually taken as a noun, a description of a new ontological condition. But this newness is all too often articulated within a language of absences, of 'withouts' – a world without borders, without nations, without deportations, without immigration controls. In this chapter, I have suggested that the phrase 'no borders' can productively be viewed as a verb. From this perspective, 'no borders' is an action, a doing, an act. The change in perspective is, I think, significant. The motivating question is not 'What are open borders'? Instead, we can ask: 'Open borders to what?' What is opened up by an open border? What other worlds emerge? I venture that what emerges is not so much a world without borders, territories, or autonomies, but a world with borders, territories, and autonomous subjectivities that are not synonymous with those of the modern political imagination based on state sovereignty and national citizenship. The deterritorialization of the border of the state thereby opens up new forms of spatial and temporal arrangements for political community.

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4

TWO REGIMES OF RIGHTS?[1]

Engin F. Isin

It is often assumed – tacitly or otherwise – that the modern problem of rights originated in a split between the 'rights of man' and 'of citizen'. Since 1789, we often hear, two regimes of rights have struggled for hegemony. The first regime constitutes rights as inalienable and allocates them to individuals by virtue of being human. Whether it derives its justification from the tradition of 'natural law' or 'human rights' the emphasis is that rights such as the right to life, liberty and security of person (art. 3) and to social security (arts. 22 and 25) belong to all humans by virtue of their being human (United Nations 1948). The second regime constitutes rights as membership in a state and deriving protection and security from that membership. These rights are civil in the sense that they arise from and give expression to the constitutional authority of the state and its people. These two regimes conflict, we are told, because each identifies a different source from which to draw its force. This is also where the problem becomes more vexed. If the state is the source of authority and legitimacy that produces the force of law protecting the rights of the citizen, then what is the source of authority and legitimacy for the rights of man as human? There is, of course, none and that is why the idea of 'natural rights' or 'human rights' is nonsense. This is what Jeremy Bentham said famously: 'Natural rights is simple nonsense: natural and imprescriptible rights, rhetorical nonsense, – nonsense upon stilts' (Bentham 1793). But it was Edmund Burke who made this argument most forcefully and as famously by saying that he would prefer the rights of an Englishman to the rights of man: 'In the famous law of the 3rd of Charles I, called the Petition of Right, the parliament says to the king, "Your subjects have inherited this freedom," claiming their franchises not on abstract principles "as the rights of men," but as the rights of Englishmen, and as a patrimony derived from their forefathers' (Burke 2009: para. 53).

It is also often assumed that the conflict between the two reached its climax in 1948 with the Universal Declaration of Human Rights by the United Nations.

When Hannah Arendt (1951) responded critically to the declaration she followed the argument of Bentham and Burke. The essence of her objection was that any rights that do not draw their force from state authority are not enforceable and remain as ideological shibboleths. Thus any rights named as human rights or natural rights remain paradoxical precisely because these rights need the force of (state) law for effective and practical enforcement – in other words, the existence of civil rights. The debates over the relationship between national and international laws often featured this paradox after the 1780s, accelerated during, before and after the First World War, and intensified after the Universal Declaration of Human Rights to which, of course, Arendt was responding (Koskenniemi 2001).

The reason I particularly mention Arendt here is not only that her argument is rather well known if not famous, at least amongst scholars of international studies, but more recently philosophers Jean-François Lyotard (1993), Jacques Derrida (2001), Giorgio Agamben (1995), Etienne Balibar (1994, 2007), Jacques Rancière (2004) and Slavoj Žižek (2005), each in their own way, adopted Arendt's argument (and by implication that of Burke if not Bentham). Whatever disagreements with Arendt (and with each other for that matter) they might have, each has essentially endorsed the existence of two regimes of rights, or 'Arendt's paradox'.

This chapter has three aims. First, it briefly presents Arendt's argument and argues that it is ambiguous enough that it can lead to philosophical, historical and sociological disagreements. So any ostensible consensus about the essence of her argument should be treated sceptically. Second, it questions a philosophical interpretation of human rights by briefly illustrating how these two rights have always been entangled and how they further converged over the last few decades. It also briefly discusses prominent historical and sociological arguments to that effect. Third, it questions historical and sociological arguments which still (even if only implicitly) accept Arendt's thesis. It then discusses new scholarship on international law from a historical sociology perspective drawing on Pierre Bourdieu. This body of scholarship focuses on rights as a legal field.

Admittedly, this is an ambitious agenda for a chapter but my aim here is to outline a proposal for future work and draw attention to this body of scholarship on international law and how it might (or might not) show the way out of Arendt's paradox. So the chapter provides a focus on the ostensible divergence of the two regimes of rights, documents their convergence, and then illustrates how we might study rights as a regime. It presents both historical and sociological arguments against the divergence and convergence theses and illustrates how an international regime is constituted by various criss-crossing fields, involving judges, jurists, lawyers, activists, academics, and advisors, who, by accumulating different forms of capital, are becoming influential social agents of this regime.

This chapter is a plea to retire Arendt's argument. While the Bentham–Burke–Arendt objection is of historical interest, juridico-legal developments since 1948 have almost completely rendered it obsolete. To put it bluntly, there are not two regimes of rights but one (albeit incipient) regime with conflicting and competing fields – legal as well as cultural. Since 1948, but especially since 1989, these two

regimes have now converged through international covenants, various regional charters of 'human' rights, and their incorporations into national laws to the extent that it has become impossible to practically distinguish between 'human' and 'citizenship' rights, though analytically the distinction persists. The aim of this chapter is to explore how to investigate this new regime of rights with complex and interlocking fields of law and politics.

The rights of man and of citizen: the divergence

It is a matter of disagreement what was actually meant by the distinction between the rights of man and of citizen when it was declared in 1789. It is even more contentious to think of this moment as the birth of human rights. The distinction between 'the Rights of Man and of the Citizen' is at best ambiguous and gives rise to various if not conflicting interpretations. Does it declare 'man' belonging to an international law and 'citizen' a national one? Does it declare that 'citizen' possesses inalienable rights precisely because he is 'man'? Does it declare that the rights of the 'citizen' are 'political' and the rights of man 'human'? All these possibilities and more have been raised yet always with the assumption, or at least giving implicit or explicit credence to the assumption, that we are dealing with two orders if not two regimes of rights. The paradox is that without the force of (state) law human rights remain unenforceable and yet the most vulnerable are those without the protection of the state. To put it differently, to benefit from being human one needs first to be a citizen. The question then turns on how to solve this paradox.

Much has been said and written about human rights since the 1940s. The sixtieth anniversary of the Universal Declaration of Human Rights (which came into force in 1948) was commemorated with appropriate attention in 2007 since it is the main declaration that codifies the concept and its attendant juridico-legal practices. Some argue that human rights have now become not only a practical (and legal force) but also an analytical tool for addressing injustices around the world (Douzinas 2000). Some even go as far as to argue that the struggle for human rights is the defining struggle of our times, especially since the collapse of communist and socialist regimes in 1989 (Douzinas 2007). Others argue that human rights are the extension of the imperialist and colonialist projects of the nineteenth century through a new empire of law (Baxi 2006; Twining 2009; Williams 2010).

Clearly, human rights are difficult to define but this is not for lack of trying. The massive literature that has sprung up about it attests to that. The British Library lists as of October 2011 more than 6,600 books on the subject. The difficulty is that it is a contested site of social and political struggle. What is at stake is not only its definition but also its codification, implementation and enforcement. These struggles are not only fought in political and legal thought but also in courts, commissions, committees and numerous other juridico-legal practices that have sprung and spawned since 1948. The sites where human rights are struggled over, and the interconnections amongst these sites, are very complex.

If we start with the basic definition of human rights as those rights that humans possess by virtue of being human, these rights are clearly *passive* and *inert* rights as opposed to citizenship rights, which are ostensibly *active* and *acquired*. I say ostensibly because citizenship as active and acquired rights does not always work with every conception of citizenship. Those views that hold rather a thick conception of citizenship, where rights and obligations reinforce each other, subscribe to an active idea of rights where rights appear as outcomes of struggles, practices and claims. By contrast, for those who hold a thin conception of citizenship all it requires to be citizens indeed appears to be passive where citizens exercise or even just simply 'hold' the rights that are given to them. But even for a thin conception of citizenship there are basic obligations such as paying taxes, which might well require more than a tacit contract with the state.

But leaving that aside for a moment, let us assume that the basic definition of human rights is those rights that humans possess by virtue of being human. Take, for example, the definition offered by the United Nations. It says:

> Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible.
>
> *(United Nations 2012b)*

It continues:

> Universal human rights are often expressed and guaranteed by law, in the forms of treaties, customary international law, general principles and other sources of international law. International human rights law lays down obligations of Governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups.
>
> *(United Nations 2012b)*

You can already spot the paradox here: while rights are described as 'human' both their protectors and violators are 'governments'. Human rights practices became much more complex than the declaration with the emergence of transnational and global non-governmental organizations that play a mediating role between people and governments; nevertheless the paradox remains.

It is this paradox that exercised Arendt. Her argument is quite well known and is beyond the scope of this chapter (Isin 2012). But let me emphasize that *The Origins of Totalitarianism* is based on empirical investigations on statelessness and refugees between the wars and, when it was published in 1951, it explicitly took a stand against the Universal Declaration of Human Rights. This was not because Arendt did not endorse 'human rights'. Rather, she was not convinced that human rights could

be protected without citizenship of nation-states (Söllner 2004). Arguably, for its most recent philosophical readership, this rigorous empirical aspect of Arendt's argument has been lost and has led to various abstractions of its arguments (Lyotard 1993; Balibar 1994; Agamben 1995; Derrida 2001; Rancière 2004; Žižek 2005).

Arendt thought that the debate over the rights of minorities between the two world wars showed

> in plain language what until then had been only implied in the working system of nation-states, namely, that only nationals could be citizens, only people of the same national origin could enjoy the protection of legal institutions, that persons of different nationality needed some law of exception until or unless they were completely assimilated and divorced from their origin.
>
> *(Arendt 1951: 275)*

For her,

> if a human being loses his political status, he should, according to the implications of the inborn and inalienable rights of man, come under exactly the situation for which the declarations of such general rights provided. Actually the opposite is the case. It seems that a man who is nothing but a man has lost the very qualities which make it possible for other people to treat him as fellow-man.
>
> *(Arendt 1951: 300)*

Arendt traces the emergence of the question of minorities in Europe and raises questions about the very possibility of human rights, or, rather, the very possibility of founding a politics on human rights. She argues that minority treaties by which 'stateless' peoples were to be protected in the early twentieth century were themselves a product of the logic of nationality and racialized conceptions of the homogeneity of population and rootedness in the soil that undergirded it (Arendt 1951: 270). The status of statelessness could only make sense under conditions where freedom was associated with emancipation symbolized by a nation corresponding to a state. For dominant groups in European states the question of minorities dangerously and rapidly converged on assimilation or liquidation (Arendt 1951: 270, 271). She interpreted this tragic process as the conquest of the state by the nation, whereby the state was transformed from an institution of law into one of nation (Arendt 1951: 273). She thus arrived at the famous conclusion that:

> No paradox of contemporary politics is filled with a more poignant irony than the discrepancy between the efforts of well-meaning idealists who stubbornly insist on regarding as 'inalienable' those human rights, which are enjoyed only by citizens of the most prosperous and civilized countries, and the situation of the rightless themselves.
>
> *(Arendt 1951: 275)*

For Arendt it was impossible to bring any of these rightless people under state law precisely because the state produced the conditions of statelessness, and hence the question of minorities, refugees and the rightless, in the first place. And all efforts to define their rights as inalienable human rights proved ineffective.

What is really important here is that Arendt locates the origins of this paradox in the very *Declaration of the Rights of Man and the Citizen*. While on the one hand the source of the rights of man was 'man' himself (as opposed to God or tradition), the guarantor of such rights could only be a people: 'man hardly appeared as a completely isolated being who carried his dignity within himself without reference to some large encompassing order, when he disappeared again into a member of a people' (Arendt 1951: 279). Man was man only insofar as he was a member of a people and being a people was increasingly defined as being rooted in soil and with a state. 'The whole question of human rights, therefore, quickly and inextricably blended with the question of national emancipation; only the emancipated sovereignty of the people, of one's own people, seemed to be able to insure them' (Arendt 1951: 291).

The significance of her argument, and its poignancy then as now, is that human rights proved ineffective not because of ill will or intention but because of the logic of nationality. Her argument was not, as Rancière (2004) suggests, a revival of citizenship rights (civil, political and social) ensconced in nation-states but to call into question the logic of nationality that undergirded citizenship and made the denial of those rights to certain groups possible (Schaap 2010). Arendt's reference to Burke, which troubles Rancière, was meant to illustrate the prescience of Burke's insight rather than to argue in defence of his conservatism or the return to tradition. On the contrary, as her argument about the definition of citizenship as 'a right to have rights' makes clear, Arendt, like Rancière, felt that 'something much more fundamental than freedom and justice' is at stake when humans are deprived of the right to have rights; that is to say, the right to speech, presence and action, in effect, the right to become political (Arendt 1951: 296).

When Arendt speaks about the dark background of mere givenness she seems to critique the logic of nationality that takes the mere existence of humans and turns it into the foundations of a nation. By contrast, the foundation of a state (not a nation or nation-state) for Arendt would militate against mere existence with what she calls human artifice: the state as a result of common human action (Arendt 1951: 300). When people are forced out of the political, they lose 'all those parts of the world and those aspects of human existence' that are the product of human action (Arendt 1951: 300, 301). 'This mere existence, that is all that which is mysteriously given us by birth and which includes our bodies and the talents of our minds,' cannot justify equality because 'We are not born equal; [but] we become equal as members of a group on the strength of our decision to guarantee ourselves mutually equal rights' (Arendt 1951: 301). Equality is not given, but a product of human action – negotiation, struggle, compromise, defeat, and victory. In fact, recalling Rancière here, it is precisely when one enacts 'the rights that one does not have' that one becomes a political subject. As Rancière suggests, 'These rights are theirs when they can do something with them to construct a dissensus against the denial

of rights they suffer' (Rancière 2004: 305). Arguably, and historically, citizenship is always a social struggle. Groups excluded from legal definitions of citizenship entitlement (slaves, women, the poor, etc.) have always made their claims to citizenship first by acting as political subjects and demanding 'the rights that they do not have'. Only by acting as citizens in this way has the legal status of citizenship broadened its boundaries to 'new subjects' (Nyers 2003: 1078).

So for Arendt the declarations of rights such as the American Declaration of Independence (1776) and the *Declaration of the Rights of Man and the Citizen* (1789) were fundamentally different from the United Nations Universal Declaration of Human Rights (1948). Arendt thought that the 1948 declaration created an impossible aim by creating the category 'human' and making it as the bearer of rights (Isin and Rygiel 2007). The question that concerns me here is not so much whether Arendt was right then but how to read the intervening period between 1948 and, say, 1989. Although I share Arendt's view that the state is a social artifice and that equality is produced rather than given, the point now I want to make is that since 1948 historical and sociological studies have challenged Arendt's objection while philosophers have generally endorsed it. It seems to me the work that we need to do is not to engage Arendt in the abstract but respond to her claims by historical and sociological investigations of juridico-legal developments since 1948 and especially since 1989. For some this a simple enough point; but I feel it needs making.

The rights of human and of citizen: the convergence

Much has changed since 1948 and we now need to understand human rights practices that have proliferated. There are different ways of giving an account of the proliferation of human rights practices. There have been influential historical and sociological accounts that I will shortly discuss. But even before that an overview indicates how things have changed. For those who are less familiar with the developments, consider the following. In 1966 the Universal Declaration of Human Rights was followed by the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), both of which came into force in 1976 since it took that much time to secure the signatures of the UN's constituent states. Also in 1966 the International Convention on the Elimination of all Forms of Racial Discrimination (CERD) came into effect. In 1979 the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), in 1984 the Convention against Torture and other Cruel, Inhuman, or degrading Treatment or Punishment (CAT) and in 1989 the Convention on the Rights of the Child (CRC) came into effect. By saying 'came into effect' we not only recognize the initial declarations themselves, which sometimes take long and hard routes, but also their ratification by states, which is often equally long and hard (Joseph *et al.* 2004). Frequently, states ratify treaties with reservations which create ambiguities and flexibilities for their implementation (United Nations 2012a).

In addition, various 'regional' rights covenants have also been adopted. The most prominent of these are the European Convention for the Protection of Human Rights and Fundamental Freedoms (1953), the American Convention for the Protection of Human Rights (1969), and the African Charter on Human and Peoples' Rights (1981).

By 2004, ICCPR was ratified by 78 per cent, ICESCR by 77 per cent, CERD by 87 per cent, CEDAW by 91 per cent, CAT by 70 per cent and CRC by 99 per cent of all member states of the United Nations (United Nations 2012a). There were also two so-called optional protocols on civil and political rights. The first of these optional protocols enables individuals to submit complaints to the UN Human Rights Committee. The second protocol prohibits the death penalty. The first is ratified by 54 per cent of states and the second by 26 per cent. Taken together the juridico-legal practices for protecting and promoting human rights have become formidable since 1948; so much so that we can call it an international 'rights regime'. As I shall argue shortly, however, by convergence of these two regimes I mean neither their merger, for it would require also disappearance of jurisdictional boundaries, nor the emergence of a cosmopolitan jurisdiction overseeing a singular juridico-political system of polity. In fact, it is against both images that I will insist on using a complex and interlocking regime of fields to describe rights. But to appreciate this insistence we need to briefly consider not only practices but also the substance of different human rights conventions, covenants and charters.

Now what are the content and substance of rights promoted and protected? These covenants and charters have precipitated a new language of rights in international law. The core idea of the ICCPR, for example, is that it recognizes that its rights 'derive from the inherent dignity of the human person' and that:

> the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights.

It also holds states under obligation to create these conditions. ICCPR has 53 articles and it covers just about every civil and political right from security to equality and fairness. ICESCR has 31 articles and covers anything from labour, health and education to family rights.

Taken together, civil and political rights protect the individual from the state and guarantee the ability to participate freely in civil, political and economic spheres. Civil rights include the right to life, liberty, and personal security; the right to equality before the law; the right of protection from arbitrary arrest; the right to the due process of law; the right to a fair trial; and the right to religious freedom and worship. Political rights include the right to speech and expression; the rights to assembly and association; and the right to vote and to political participation. Social and economic rights include the right to a family; the right to education; the right

to health and well-being; the right to work and fair remuneration; the right to form trade unions and free associations; the right to leisure time; and the right to social security. Cultural rights include the right to the benefits of culture; the right to indigenous land, rituals, and shared cultural practices; and the right to speak one's own language and to education in one's native language.

We might now ask: what remains the *substantive* difference between human and citizenship rights? The juridico-legal convergence since 1948 and especially since 1989 makes it impossible now to differentiate human and citizenship rights. The *practical* difference is one of implementation and enforcement: international covenants develop principles and via various mechanisms encourage or coerce states first to sign up to them and then to implement and enforce them. So it seems what happened is that a regime of rights has emerged under the banner 'human rights' and developed various 'rights bundles' by which to govern citizens in sovereign states.

A sceptic following Arendt (or Bentham or Burke for that matter) might well object here. She might say that all these ratifications (although some significant clauses such as on death penalty are still not ratified by prominent states such as the US) indicate that human rights remain ineffective if not unenforceable rights and sovereign states still remain both the sole guarantor and violator of these rights. This is true, but only partially. The proliferation of covenants and charters and their ratifications are only part of the new rights regime and we need to consider practices through which judges, jurists, lawyers, activists, academics, and advisors exert an increasing influence on the way in which international law is effectively both incorporating and precipitated by human rights covenants, charters and ratifications (Koskenniemi 2011). The periodic reports, court cases, public rebuttals, media interventions, demonstrations, and several other practices collectively make up an effective regime constituted by various fields of expertise. In other words, the argument that human rights cannot be reinforced unless sovereign states authorize them, itself became abstract with the emergence of an international human rights regime. Moreover, we have seen over the last decade or so that the dividing line between implementation and non-implementation often concerns broader interests of the states involved than the ostensible force of sovereignty. The following is just one, albeit simplistic, way of illustrating an aspect of how such a regime operates.

The UK was incorporated into this regime with the introduction of the Human Rights Act (HRA) in 2000. The HRA was implemented in full on 2 October 2000. It works in three main ways. First, it places all public authorities (including central and local government, the police and the courts), under a statutory obligation to act compatibly with European Convention on Human Rights (ECHR) rights, and allows a case to be brought in a United Kingdom court or tribunal against a public authority which fails to do so. Second, it requires that all legislation must be read and given effect in a way compatible with the ECHR rights. If it is impossible to do so, the higher courts may formally declare the legislation incompatible with the ECHR (in the case of primary legislation),

or strike it down (in the case of secondary legislation). A formal declaration of incompatibility does not affect the validity, continuing operation or enforcement of the legislation but may trigger the use of a remedial order, a special procedure allowing Ministers to amend the offending provisions or pass fresh amending legislation. A Minister introducing a Bill in Parliament, must make a declaration to the effect that the Bill is, in his or her view, compatible with the ECHR rights, or that, despite his or her inability to make such a declaration, he or she wishes the House to proceed with the Bill. Finally, the HRA requires British courts and tribunals always to take account of the case-law of the European Court of Human Rights (ECtHR) in Strasbourg when determining a question which has arisen in connection with an ECHR right. As all this happens, there are often repetitive and constant discussions as to whether the UK should remain within ECHR or should develop its own Bill of Rights (Wintour and Travis 2011). But these contestations and postures are part of the competitive field of struggles that make up the emerging regime of rights.

A case concerning voting rights for prisoners is a good illustration. In 2005, the ECtHR ruled that the UK violated the convention by denying a prisoner the right to vote (ECtHR 2005). The UK government immediately appealed to overturn this decision. In 2011 it lost its final appeal against giving prisoners the right to vote following a ruling by the ECtHR. The court issued a statement and said: 'The court now gives the UK government six months from 11 April 2011 to introduce legislative proposals to bring the disputed law in line with the [European Human Rights] Convention' (Quinn 2011). In addition, the court dismissed the UK government's request for an appeal hearing and decreed its original verdict final. This case, amongst other things, is of interest for a good reason. Of course, the right to vote is a political right and a sovereign state would rather maintain its sovereignty over whether certain citizens – in this case prisoners – should be granted this right. The franchise is one of the cherished rights and obligations of sovereign power and has an illustrious history. But is it a human right? In theory, if we take the definition of human rights as rights that are due by virtue of being human, of course, it is not. Yet, the point here is exactly that actual practices make it increasingly difficult to maintain that position as many rights that used to be categorized as citizenship rights, such as voting, have become incorporated into an international rights regime. Second, if this was only about voting rights for prisoners the UK government would probably quietly ignore it without much fuss. But what is at stake is the mode and degree of incorporation of UK legal and juridical practices into that of the human rights regime.

As the case in ECtHR was being considered, in 2008, the UN Committee on Human Rights issued a periodic report on the progress of UK's incorporation and observance of human rights. It stated that it was 'concerned that the State party [UK] has continued its practice of detaining large numbers of asylum-seekers, including children' (United Nations 2008a: para. 21). Again, the treatment and governing of refugees is amongst the most significant of sovereign prerogatives. The report continued:

> the Committee reiterates that it considers unacceptable any detention of asylum-seekers in prisons and is concerned that while most asylum-seekers are detained in immigration centres, a small minority of them continue to be held in prisons, allegedly for reasons of security and control.

Moreover, the Committee was

> concerned that some asylum-seekers do not have early access to legal representation and are thus likely to be unaware of their right to make a bail application which is no longer automatic since the enactment of the Nationality, Immigration and Asylum Act 2002.

Finally, 'the Committee [was] also concerned by the failure to keep statistics on persons subject to deportation who are removed from Northern Ireland to Great Britain, as well as their temporary detention in police cells. (arts. 9, 10, 12 and 24)'. The report concluded that

> the State party should review its detention policy with regard to asylum-seekers, especially children. It should take immediate and effective measures to ensure that all asylum-seekers who are detained pending deportation are held in centres specifically designed for that purpose, should consider alternatives to detention, and should end the detention of asylum-seekers in prisons. It should also ensure that asylum-seekers have full access to early and free legal representation so that their rights under the Covenant receive full protection. It should provide appropriate detention facilities in Northern Ireland for persons facing deportation.
>
> *(United Nations 2008a: para. 21)*

These two cases illustrate, first, how the substantive and practical convergence between what used to be called citizenship rights and human rights is happening, and, second, how this is precipitated by and giving rise to the emergence of a regime of rights constituting various fields of practice in international law and politics. The first point has been the subject of historical and sociological studies. Amongst historical studies Samuel Moyn's *The Last Utopia* (2010) stands out for its critique of historicist claims about human rights. Moyn is critical of histories tracing human rights to Greek, Jewish and other origins. He insists that the invention of human rights is much more recent, in fact as recent as the 1970s, and arises from the failures of both nationalist and internationalist utopias. As the last utopia, it is telling its own stories as immemorial just as the Hagiography of the Church, or any establishment for that matter, had done. But Moyn calls his own the true history of human rights by endorsing Arendt's argument that human rights required the enforcement of the nation-state. Moyn accepts that human rights became a politics of suffering abroad and citizenship rights functioned within 'domestic' politics (Moyn 2010: 12). Nonetheless, Moyn illustrates that internationalism is a late nineteenth- and early twentieth-century development. Despite the talk of universal

rights there never was a talk about universalizing human rights beyond the state. This development began in the 1940s and did not acquire the sufficient force that we recognize today until the 1970s. What has been happening since the 1970s can be effectively described as the emergence of international law. This is an important analysis that not only shows the recency of human rights within international law but also illustrates how the constitution of a field depends on eternalizing its own object, in this case human rights (e.g., Ishay 2004, 2007; Hunt 2007). Yet, after providing an insightful and incisive historical account of the constitution of human rights in international law, Moyn reverts to Arendt's objection. He concludes that indeed Arendt was right in arguing for the primacy of the state in enforcing and upholding not only the right of the citizen but also of man (Moyn 2010: 12, 31, 42). Moyn comes close to but does not consider the second point above on the convergence of human and citizenship rights into a regime.

Two prominent sociological studies have also made the first point about the convergence of human rights. Yasemin Soysal drew our attention to this when she argued that rights provided, sanctioned and enforced by the nation-state were too limiting to understand the status of immigrants and their de facto citizen status in liberal democracies and she named the emerging citizenship regime as postnational (Soysal 1994). She argued that postnational citizenship

> reflects a different logic and praxis: what were previously defined as national rights become entitlements legitimized on the basis of personhood. The normative framework for, and legitimacy of, this model derive from transnational discourse and structures celebrating human rights as a world-level organizing principle.
>
> *(Soysal 1994: 3)*

For Soysal,

> the incorporation of guestworkers in Europe reveals a shift in the major organizing principle of membership in contemporary polities: the logic of personhood supersedes the logic of national citizenship. This trend is informed by a dialectical tension between national citizenship and universal human rights.
>
> *(Soysal 1994: 164)*

This is precisely the difference between when Arendt wrote about human rights and when Soysal offered her seminal analysis of the dialectical tension between two regimes of rights. But if we suppose, as Soysal does, that somehow human rights are superseding citizenship, it becomes necessary to revert back to the assumption that indeed there are two regimes of rights rather than one. Bryan Turner, too, has drawn attention to the slippage between human rights and citizenship rights but still assuming the existence of two regimes (Turner 2009). Kate Nash considers this emerging regime as an 'actually existing cosmopolitan citizenship', which

recognizes its practical existence (Nash 2009a: 1072). Nash uses the term 'intermestic' to indicate that a sharp distinction can no longer be maintained between international and domestic law and jurisdiction regarding how human rights are practised. She says that human rights are not just international or transnational. Rather, 'human rights are intermestic: legal claims to human rights which draw on international law in national courts disrupt and sometimes re-configure jurisdictional borders between the international and the domestic from within states' (Nash 2009b: 15). Although useful in pointing out the entanglement of these two regimes, to conceive it as 'intermestic' is, I think, misleading since it makes it appear as though the entanglement is merely jurisdictional whereas, arguably, it is also substantive. Clearly, historical, sociological and political studies have identified the convergence or entanglement of the two regimes of rights – of man and of citizen – but are searching for ways of naming, recognizing and investigating it.

Rights: regimes, fields and capital

So far I have used words such as 'regime' and 'field' to indicate the scope of human rights as transnational or international. I will now elaborate both these concepts as regards rights. Of particular note is the new body of scholarship concerning the emergence of transnational or international law as fields of practice which deploys concepts developed by Bourdieu to investigate academic, bureaucratic, cultural and artistic fields (Bourdieu 1987, 1989, 1990, 1996). Bourdieu used concepts of field and capital together. This is because the value of capital depends on the existence of a field in which it can be invested. A field is constituted by social agents with possession of different forms of capital. The overall volume and composition of capital determines the position that an agent occupies in a field. A form of capital pertains to a field both as an instrument and a stake of struggle. It allows agents who possess it to exercise power and influence in the field under consideration (Bourdieu and Wacquant 1992: 98). For Bourdieu,

> a form of capital does not exist except in relation to a field. It confers power over the field, over the materialized or embodied instruments of production or reproduction whose distribution constitutes the very structure of the field, and over the regularities and the rules which define the ordinary functioning of the field, and thereby over the profits engendered in it.
>
> *(Bourdieu and Wacquant 1992: 101)*

Bourdieu insists that drawing the boundaries of a field is always difficult because its limits are always at stake in the field itself (Bourdieu and Wacquant 1992: 100). Although field and capital proved useful analytical concepts, as we will see shortly, they also resulted in rather too tightly drawn limits or boundaries in and through which agents exercise power. For this reason I use 'regime' in the sense that Foucault used 'regime of truth' or 'regime of power' to indicate the ways in which things become sayable and visible. For Foucault,

> each society has its regime of truth, its 'general politics' of truth: that is, the types of discourse which it accepts and makes function as true; the mechanisms and instances which enable one to distinguish true and false statements, the means by which each is sanctioned; the techniques and procedures accorded value in the acquisition of truth; the status of those who are charged with saying what counts as true.
>
> *(Foucault 1980: 131)*

The regime of truth enables fields of expertise to traverse each other and social agents to move across them. In this way, a regime of rights, together with its fields and forms of capital, can constitute the starting point for investigation of the emergence of an international regime of rights.

It is often said that Bourdieu rarely concerned himself with the 'international' and most if not all the fields he investigated were 'national'. More recently, however, a number of scholars have begun deploying his concepts to international fields with effective results (Bigo and Guild 2005; Bigo *et al*. 2010; Bigo 2011). More specifically, the investigations by Dezalay and his colleagues on the emergence of international law as a professional field have been noteworthy (Dezalay and Sugarman 1995; Dezalay 1998; Dezalay and Garth 2011a). Amongst these Bourdieu-inspired investigations the most relevant for the emergence and functioning of an international regime of rights is the work of Mikael Rask Madsen (2011, 2012). Starting by rejecting conflicts between national and international and between law and politics, Madsen illustrates that investigating human rights as a field allows us to see how its actors (judges, jurists, lawyers, activists, academics, advisors) take up positions in the field across these boundaries. The conflict and competition, he argues, is not between an ostensibly sovereign state and an international or cosmopolitan order but between and amongst these actors struggling to establish their hegemonic grip on the field. The very definition of human rights is deeply contested not because there is a conflict between national and international actors but because it is a stake of struggle amongst competing actors within the field (Madsen 2011: 267–68). Madsen says in fact that 'it is precisely by understanding this tension that it becomes clear why legal actors to a large extent have become the couriers – not to say the brokers – of the national and international law and politics of human rights' (Madsen 2011: 271). The most significant analytical intervention, then, is to shift the analysis from already given entities such as states and courts to actors and agents who constitute not only a field that traverses such entities but also markets in and through which they accumulate and convert forms of capital such as symbolic, cultural, social and economic capital (Dezalay and Garth 2011b). Thus, 'studying international human rights in terms of a relational field, the positioning of the actors vis-à-vis the other main positions of the field (the state, international institutions, academia, civil society, and so on) is a very central issue' (Madsen 2011: 266). Although Madsen does not use 'regime' to indicate the make-up of various fields and their relations, it is a useful term to also indicate the structural homologies between and amongst fields through which actors constitute their positions. By a regime, however, I do not mean a super field with

coherent, consistent and unified rules of operation that, for example, 'global governance regime' implies (Nickel 2002; Madsen 2011: 264). Rather, it is more like a regime of truth as described above through which it becomes possible to mobilize and assemble various distinct fields, such as legal or bureaucratic, in which an actor is active. Unlike Nash (2009b: 32), I think Bourdieu's concept of the field is too specific to describe the emerging 'rights' scene. It makes more analytical sense to define it as the 'rights regime' and investigate its constituent and constituting fields such as the legal, cultural and political. The rights regime traverses these fields. For me, the picture that emerges from decades of juridico-legal and cultural development is one of an international regime of legal experts, advocates and activists who have become dedicated to developing a series of legal, binding and abstract rules through various international instruments and mechanisms and enforcing them through national executive, legislative and deliberative bodies and operating across and traversing various fields.

By approaching rights as an emerging regime rather than two incompatible regimes of man and of citizen and considering it as a dynamically constituted regime of fields, it is possible to argue that the relevant political questions that this regime of rights triggers are not whether human rights or citizenship rights offer best form of protection, whether they are incompatible, and whether human rights distracts us from where the real protection is located (with citizenship). Rather, it raises the question of how such a regime is impacting on possibilities for political action and the enactment of protection. More precisely, it raises three distinct, but interrelated, questions. First, how does the international rights regime actually legitimate, perhaps even reinforce, state-driven citizenship practices and their exclusive hold on population management and government? Second, how does this emerging regime displace social and political struggles over rights with legal battles largely run by an emerging international class of professional legal experts, advocates and courts, which most often operate away from deliberative bodies and contestable sites? Third, by recasting citizenship rights as human rights how does the emerging regime create an increasingly rigid and technocratic image of rights rather than a flexible, negotiable and open conception? That more recently 'fundamental rights' replaced the phrase 'human rights' increases the relevance of this question. Let me briefly elaborate each of these questions:

(i) *Recoding sovereignty*: Does the international regime of rights actually strengthen states? Consider the fact that the protocol of bringing cases to human rights committees or courts in the last instance always resides with individuals and depends on an individualizing rights discourse. Since the international regime of rights is enacted primarily through juridico-legal sites such as courts, tribunals and committees, access to such sites requires exhausting all other avenues, which entails the invoking and legitimizing of state authorities by individuals. The actors of the regime become brokers between these sites and individual claimants. Consider also the fact that by taking states as its equal and its addressee, the international human rights regime reinscribes their legitimacy while appearing to undermine

it. The discourse on rights that the regime produces increasingly constitutes two sovereign bodies as its addressees: the sovereign individual and the sovereign state. Admittedly, the emergence of transnational and non-governmental organizations as intermediating actors has complicated the picture but it has not altered the legal relationship between the sovereign individual and the sovereign state. Still, the sovereign individual is sovereign not only insofar as its sovereignty is recognized by the state but also by virtue of being human. This might sound circular but the language of the international rights regime does not constitute the stateless persons as sovereign individuals (Waas 2008). The covenants do not recognize the rights of others to enter or reside in the territory of a state. It is a matter that each state decides. Only when the other is allowed to enter the territory of a state is she or he then entitled to the rights set out in the covenants (Joseph *et al*. 2004: 352). In its juridico-legal practices, the international rights regime does not address the injustices of the state system of population management, only their consequences. Finally, consider the fact that by disabling individuals from bringing up cases (if they are not directly implicated by these consequences), it effectively renders individuals as isolated individuals and transfers their political subjectivity (as their capacity to relate to others) from them to judges, activists and lawyers. In essence, the international rights regime makes it difficult to defend the rights of others. This sounds paradoxical since human rights appear as though it is entirely about the rights of others. It is impossible to emphasize an injustice without a victim. Yet, the regime has even enshrined the concept of 'human rights defenders' as expertise. Arguably, the practices of the emerging rights regime, in quite complex ways, are recoding both relationship between the sovereign individual and the sovereign state and the regime itself, or more precisely those social agents who are endowed with various forms of capital in its constitutive fields, as arbitrators or brokers in between these two sovereignties.

(ii) *Depoliticizing rights*: Is the international regime of rights displacing a politics of claiming (new) rights with that of enforcing (existing) rights? Through the strong protocol and procedure based system of adjudication, which is one of its defining elements, the international rights regime makes it increasingly difficult to question or alter the rules that make up the regime or to question the substance of their adjudication. The logic of human rights demands the inalienability of human rights in situations where it has already been determined that certain individuals have lost their rights. But as Rancière notes, 'this identification of the subject of the Rights of Man with the subject deprived of any right' leads to 'an actual process of depoliticization' (Rancière 2004: 306). Perhaps counter-intuitively, the power of human rights lies precisely in the fact that there is a gap between the ideal as an abstract concept and their realization in practice. For it is this gap that engenders politics, facilitating the process of becoming political as agents claim the rights they do not have, and in so doing, acquire the first condition necessary for having human rights, that of the right to being political. Human rights become problematic, therefore, because in deciding who has, and does not have, rights from the

outset they 'become humanitarian rights, the rights of those who cannot enact them, the victims of the absolute denial of right' (Rancière 2004: 307). In other words, human rights discourse is used to give rights to individuals determined to be without rights, something akin to a charitable donation such as medicine or clothes, which are donated to the poor, rather than rights that they have a right to define as a way of becoming political (Rancière 2004: 307–8). I wonder though if this is the result of the fact that human rights are abstract rights and that unlike citizenship rights they cannot be enforced as Arendt thought. Rather, is it not due to the fact that the international regime of rights has given over the capacity to act to those social agents who are active in its fields? I wonder, too, if it is that the logic of human rights is such that it renders political subjects ineffective, as Rancière thought, or it is that subjects cannot become political without the mediation of those social agents who are endowed with forms of capital through which they exercise power and influence.

(iii) *Repoliticizing rights*: Is the international regime of human rights moralizing rights while claiming to repoliticize them? This repoliticization occurs through various practices but most prominently with the 'enforcement' of international covenants by the UN's Human Rights Committee (HRC), especially the ICCPR. Article 13.3 addresses the liberty and security of person and occasions many misgivings raised by the HRC. For example, in 2001 in respect of the UK, the Committee noted

> with concern that, as acknowledged by the State party [UK], there is increasing racial tension between asylum-seekers and the host communities, which has led to an increase in racial harassment in those areas and also threatens the well-being of established ethnic minority communities. The Committee also recommends that the State party take the lead by sending out positive messages about asylum-seekers and protecting them from racial harassment.
>
> *(United Nations 2001: para. 15)*

Similarly, in 2003, the Committee expressed concern

> that a disproportionately high number of 'stops and searches' are carried out by the police against members of ethnic or racial minorities. The Committee encourages the State party to implement effectively its decision to ensure that all 'stops and searches' are recorded and to give a copy of the record form to the person concerned. The Committee invites the State party to address this issue in more detail in its next periodic report.
>
> *(United Nations 2003: para. 19)*

More recently, in 2008, the Special Rapporteur was

> alarmed about reports that schoolchildren in Northern Ireland are often targets of abuse or physical attacks owing to their school uniforms or their

> itinerary to school, which are deemed to identify their religious affiliation. The Government has a duty to protect children against such attacks and should adopt the best interests of the child as a paramount consideration in all legislation and policy affecting children throughout its territory. In legislation on offences aggravated by hostility it may be advisable to refer not only to actual religious belief but also to the accused's perception of the religious, social or cultural affiliation of the targeted individual or group.

The Special Rapporteur was told that 'sectarianism is deep-rooted in many minds; apparently even in casual conversations people try to seek indications – such as residence, education or support for a specific football team – about the religious affiliation of their interlocutor'. Finally,

> in terms of prevention, the Special Rapporteur recommends schools to raise awareness, stimulate debate and encourage people to discuss the root causes of sectarian tensions and what role they can play in challenging religious prejudice. In this regard, football clubs throughout the United Kingdom may also have a role to play in dealing with the sectarian behaviour of their own or visiting fans.
>
> *(United Nations 2008b: para. 64)*

Clearly, areas and scope of expertise that used to be considered under the jurisdiction of a sovereign state are increasingly being raised through covenants, charters and their instruments.

These are a few indicative examples of how the administration of covenants inscribes mundane and routine practices by which the HRC, ECtHR and other bodies gradually repoliticize rights via technical and instrumental injunctions. By so doing it establishes a protocol whereby the negotiation of civil and political rights shift from contested and negotiable sites of struggle composed of various social actors (governmental or non-governmental) to juridico-legal fields where the main contestants are the UN and signatory states.

Conclusion

Since 1948 but especially since 1989 there has been a significant convergence of human rights and citizenship rights and hence a convergence of two rights regimes that ostensibly emerged after 1789. This convergence has occurred largely through the proliferation of human rights conventions and the associated juridico-legal practices occurring in the context of international and regional bodies. Classical rights, such as civil, political and social rights, that have operated in and through sovereign states (regime of citizenship rights) have increasingly been incorporated into a regime of rights that operates through various international and regional bodies and actors (a regime of human rights). These bodies exercise authority that has been recognized and endorsed by many states through periodic mechanisms

of ratification. Historical and sociological studies have increasingly emphasized this convergence from various perspectives. Moreover, the image of human rights politics as being played out by national versus international, or domestic versus transnational actors is seriously undermined by the emergence of interlocking legal and cultural fields in which judges, jurists, lawyers, activists, academics, advisors and other actors such as journalists take competitive positions and dispositions and, in doing so, effectively create a regime of rights. The paradox that Arendt identified pointing out the unenforceability of human rights without the force of sovereignty has resolved itself and, in the process, consigned itself to the dustbin of history. While still used as a convention it is doubtful if it is any longer meaningful to describe the converged regime as a regime of merely 'human rights' especially as if it is unrelated to citizenship rights. In relation to the question of protection, this leads us to ask whether it is still sensible to continue interpreting the politics of refuge and migration or human security as a choice over the primacy of citizenship rights versus primacy of human rights.

Perhaps the time has now come to just simply talk about a 'regime of rights'. If the three questions I articulated have any weight, the task then becomes how to investigate the international regime of rights and its constitutive and constituent fields, and with rigorous and robust methods of social and political research to identify emerging political subjects of rights.

Note

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5

TOWARDS GLOBAL CITIZENSHIP PRACTICE?[1]

Antje Wiener

Modern citizenship suffers from what might be termed an inside/outside dilemma. This is because the protection of citizens inside communities entails a conceptual requirement for 'others', or 'outsiders', who present a potential threat. The very constitution of a community of citizens creates a:

> civil state as regards our fellow citizens, but a state of nature as regards the rest of the world; we have taken all kinds of precautions against private wars only to kindle national wars a thousand times more horrible [. . .] *in joining a particular group of men [sic], we have really declared ourselves the enemy of the human race*.
>
> *(Rousseau, cited in Linklater 2007: 17, emphasis added)*

Citizenship is thus bound up with an ethical dilemma, in that the act of creating a safe community of citizens also constitutes an outside – a state of nature – in which individual safety is compromised (Linklater 1998). While the bestowal of equal sovereign rights on all member states of the United Nations (UN) meant protection against security threats, the stability of the UN system relies on the concept of modern statehood. Accordingly, the political interest in maintaining the UN system implies an acceptance of the ethical citizenship dilemma.

> [T]hroughout the international system, as long as territorially bounded states are recognized as the sole legitimate units of negotiation and representation, a tension, and at times even a fatal contradiction, is palpable: the modern state system is caught between *sovereignty* and *hospitality*, between the prerogative to choose to be a party to cosmopolitan norms and human rights treaties, and the obligation to extend recognition of these human rights to all.
>
> *(Benhabib 2006: 31)*

There are two ways of addressing the dilemma: either crack it, a way forward which assumes the dilemma is fabricated and therefore not a classical unsolvable problem, or, scrutinize the underlying assumptions on which it rests. This chapter takes the latter approach, asking three questions: First, is the normative assumption about territorially bounded states as sole negotiators still valid today? Second, how stable are political communities or polities in the twenty-first century, given that borders are crossed in the process of citizens' '*going and staying away*', rather than '*coming and going*' and coming back (Torpey 1998)? Third, is the stability of the sovereignty-based international society of states challenged by non-state actors?

A change in the sovereign status of modern states and their territorial boundaries indicates a need to reassess the above-noted dilemma. Liberal institutional theories in International Relations (IR) and Political Theory offer little hope as their Janus-faced states perpetuate the ethical dilemma. They operate according to universal assumptions about the citizenry, not humanity. Their unit of analysis remains the state or the 'people' (Rawls 2002), leaving to one side international encounters among non-state actors. In contrast, this chapter notes a number of changes in the global realm which provide good reasons for a reassessment of the ethical dilemma. They include, *first*, the changing sovereign status of European Union (EU) member states in the process of pooling sovereignty; this change has occurred gradually and is based on a series of legal and constitutional changes (Craig and De Búrca 1998). The *second* change is the growing negotiating and legislative powers of international organizations such as the UN Security Council (SC), the World Trade Organization (WTO), the EU and others (Dunoff and Trachtman 2009). The new political weight of international organizations as non-state actors in the global realm has caused others to contest their policies and claims. These encounters constitute new 'sites of contestation' (Benhabib 2007) where struggles over fundamental rights, principles and norms take place. They are the places where global citizenship practice is most likely to emerge.

To scrutinize the underlying assumptions of the ethical dilemma we first need to identify deviations from the balance among sovereign states. To that end the chapter focuses on the citizen–state relationship, which was constitutive for modern state-building and is defined as 'citizenship practice' (Wiener 1998; Hanagan and Tilly 1999). The concept of citizenship practice draws on Charles Tilly's observation that the routinized relationship between the population and the emerging political authority of the state played a central role in the process of modern state-building (Tilly 1975). Citizenship practice is defined as the process of policy making and political participation which shapes the institutional terms of citizenship (Wiener 1998). It entails necessary *constitutive elements* – the individual and the state – and specific *historical elements* – rights, access and belonging. The following proceeds in four sections. The first section develops the argument; the second section introduces the concept of global citizenship practice; the third section focuses on the dual security problematique; and the fourth section turns to an empirical study of those moments when fundamental rights are contested in encounters between

citizenship and security practices. The chapter concludes with some comments on the outlook for further large-scale research on global citizenship practice.

Border crossing – coming and going and staying away

The history of the passport describes the emergence of modern citizenship as a process of 'coming and going' to and from a citizen's community (Torpey 1998). In contrast, late modern citizenship practice increasingly entails *going and staying away* from one's community of origin – for a variety of reasons. This shift means that citizenship practice extends beyond the modern nation-state borders recognized by the UN's Charter regime. If the citizen–state relation is an indicator of the political authority of states, the activity of border crossing undermines this erstwhile stable modern relationship. In addition, as the EU's citizenship practice has demonstrated, border crossing creates 'foreigners' who lack fundamental rights of access to participation in their new communities of belonging. As a result, the constitutional quality of modern citizenship is changing; the 'thick' bundle of citizenship rights which was established at the height of the modern welfare state regime in the 1970s, and which encompassed the protection of rights, access to vote, and belonging to a nation-state, has gradually become 'thinned out'. Contributing to this process were everyday practices such as migrant workers crossing borders, leisure activities, and educational exchange programmes. This *vacuum* of thin citizenship stands to be refilled by new rights, constituted through citizenship practice elsewhere. If the EU's experience is taken as a frame of reference 'for citizenship practice in a non-state' (Wiener 1998), moments in which the historical elements of citizenship were contested indicate the changing constitutional quality of citizenship. For example, access to fundamental rights such as judicial review, voting rights, and security – understood as both protection through, and from, security practices – reveals the possibility of new constitutional layers of citizenship in addition to, and/or in tension with, the constitutional settings of modern nation-states.

With regard to border crossing on a global scale, this experience raises a question about the potential for qualitative change of the citizen–state relation through global citizenship practice. Whether, and how, this occurs and which institutions matter is elaborated in the following sections. For now, it is important to note that borders defining the 'safe' place of citizenship rights, and their protection, have been perforated. Citizenship practice has diffused (spread in diverse ways) into the global realm which lacks institutions responsible for, and capable of, safeguarding the constitutional rights of citizens. If this were the case, we would have reached the end of the story, and the ethical dilemma would endure. A practice-based approach to citizenship suggests a different outcome, however. It allows for various scenarios which are distinguished according to two questions. First, whether the global diffusion of citizenship activities – triggered by citizens who are *going and staying* in new contexts which do not allow them to benefit from constitutionalized regional organizations, such as the EU – indicates a fragmentation and thinning out

of constitutional quality. And second, whether there are indicators of places in the global normative order where constitutional quality can be restored.

The rationale behind this query draws on the familiar trajectory of citizenship practice and polity formation which spans from the Greek city-state in the classics, via the modern nation-state in Europe and elsewhere, to the EU's non-state polity in the late twentieth century. If citizenship practice has had a constitutive impact on the constitutional quality of political authority in these contexts, then an inquiry into the way *global citizenship practice* is likely to constitute a constitutional layer in a fourth – global – realm seems sensible. If citizenship practice follows from diffused citizen activity such as border crossing (coming and going), and settlement outside one's community, then a constitutionalizing input in a global polity would be expected. The outcome would have to be either an alternative to, or a revision of, the UN system of modern sovereign states. According to the literature, possible options include a plurality of constitutional communities (Walker 2011; Tully 2008a, 2008b) or the formation of a global polity (Fassbender 2009; Cohen 2010).

For an activity to be considered as citizenship practice a specific reference to the historical elements of rights access, or belonging, needs to be present. In the absence of this, citizens' activities of coming and going, or going and staying away, are not considered as indicators of citizenship practice that is constitutive of polity formation. Empirical research therefore needs to focus on moments when the safety of citizens is contested. These moments are characterized by a *double security problematique* which arises when security policy threatens the safety of citizens. Such situations occur when citizenship practice challenges security practice; take, for example, new security measures such as the 'black-listing' of individuals, which the UNSC is authorized to activate to protect the majority against those who are suspected of collaboration with terrorists.[2] This policy, however, potentially undermines the fundamental right to judicial review and fair process, and therefore entails a threat to the security of blacklisted individuals in cases where the suspicion of terrorist collaboration fails to be proved. The third section will detail this problematique with reference to recent court cases where general principles of citizenship were contested and renegotiated.

Extending citizenship rights in cycles of fragmentation and bundling

Rights and identity are the two central pillars of modern citizenship theory (Brubaker 1992; Soysal 1994; Barber 1988). The relationship between them has been forged through reference to a specific community in which those who enjoy membership rights develop a special identity over time (Marshall 1950). The necessary reference to individual rights and membership in a politically defined community has reflected the inside/outside logic of sovereignty (Walker 1993). Accordingly, the concept of citizenship defines the limits and possibilities of membership in a community. In turn, socio-historical approaches have conceptualized citizenship as

a living concept. A practice-based approach allows for the study of 'struggles' on the ground as well as 'contestation' in theory (Tully 2008a). This perspective overlaps with that of more radical cosmopolitans who focus on 'sites of contestation', defined as the 'constitutionally structured reaggregation of the markers of sovereignty, in a set of interlocking institutions each responsible and accountable to the other' (Benhabib 2007: 31). This 'conjunction brings into being a complex new *field*' which allows for the contextualization of modern citizenship based on the 'language of diverse citizenship' and makes possible an analysis of '*modern citizenship as one out of many possible options* of citizenship' (Tully 2008a: 485, 493, emphasis added; Goetze 2009). The following details the practice approach.

Citizenship practice

Citizenship theory has always grappled with the parallel requirements of normative, and hence universal, expectations on the one hand, and contingent, and hence particular, realizations on the other. With a view to conducting empirical research, it has been suggested that using the concept of 'citizenship practice' will enable both dimensions to be acknowledged (Jenson and Phillips 1996; Wiener 1997, 1998; Shaw 1997; Kostakopolou 2001; Lister 2003; Pfister 2005). I define citizenship as an *organizing principle* that frames citizenship practice in constitutional terms (Figure 5.1).

The innovative conceptual move towards citizenship practice allows for an analytical distinction between the universal and the particular aspects of citizenship, without losing the constructive tension between them. Accordingly, research on citizenship practice distinguishes between a *first dimension* of constitutive elements and the *second dimension* of historical elements. The former encompasses the individual (as the potential citizen), the political organization (as the potential polity) and the relation between both (as the potential citizenship practice). Notably, it is the practice that ultimately establishes who enjoys which rights, on what cultural grounds, and through which political, economic and social means (Marshall 1950). The latter comprises rights, access and belonging (Figure 5.2). Their quality depends on citizenship practice. As Marshall noted, 'citizenship is a developing concept', its 'ideal' is contingent (Marshall 1950). The balance between the three constitutive elements of citizenship may shift accordingly. If such a shift is dramatic

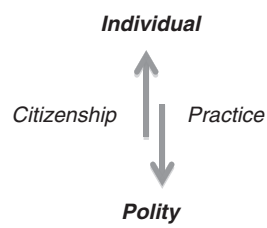

FIGURE 5.1 The constitutive elements of citizenship (Wiener 1998: 22)

FIGURE 5.2 The historical elements of citizenship practice (Wiener 1998: 26)

and enduring, a critical juncture in the historical configuration of citizenship might be observed.

In sum, citizenship practice makes both the citizen and the polity possible. Its progress over time, yet in specific places, continually constitutes and reconstitutes both the citizen and the polity. As a generic concept, citizenship is not limited to a *universal principle* defining the rights and duties of individuals within a political community. As a practice it is also an *organizing principle* of constitutional communities. It is therefore the key empirical indicator to assess change in the normative global order.

Critical junctures

As Tilly demonstrated in his seminal work on state-building and citizenship, it is precisely the changing and growing relation between the state and the population which forms the basis of citizenship. According to this historical approach to state-building such junctures of citizenship formation occur in the aftermath of long periods of structural change (Tilly 1975; Hanagan and Tilly 1999). This approach was substantiated by Marshall's social studies of citizenship in Britain. Thus, the studies identified a change from a situation of fragmented civil, political and social rights over two centuries, to the bundling of citizenship rights in the twentieth century (Marshall 1950). It was brought about by a double process of fusion and separation which established the institutions of citizenship within a specific context; in this case, the British polity. Prior to this, the most distinctive juncture occurred when citizenship rights were 'crystallized' in Western welfare states in the 1970s (Soysal 1994). It was followed by a new period of fragmentation when citizenship rights were established 'above' the nation-state, in Europe. Its first constitutional manifestation was the stipulation of Union citizenship with Article 8a-e of the Maastricht Treaty of European Union in 1993. In light of these major structural changes, the question that arises is whether the current process of fragmentation is likely to lead to another period of bundled rights and, if so, what the constitutional terms of this process are likely to look like. This question matters crucially for the debate about the emerging normative order on a global scale (Barnett and Sikkink 2008; Deitelhoff *et al.* 2010).

Consider, for example, the alternating structural change from fragmented to bundled citizenship rights (Table 5.1). According to Marshall the erstwhile fragmented triad of civil, political and social rights that had been constituted through citizenship practice in the eighteenth, nineteenth and twentieth centuries,

TABLE 5.1 Cycles of extending rights

Structural pattern of change: substance, institutions and levels	
Rights/time	*Institutions/level*
'Blended' citizenship Rights and 'amalgamated institutions' in sixteenth and seventeenth centuries	**Local:** Equal citizenship rights and duties
Fragmented citizenship rights in the eighteenth and nineteenth centuries	**Sub-national:** Civil (courts of justice), political (parliament, councils of local government), social rights (educational system and social services)
Bundled rights in the twentieth century	**National**: citizenship rights and nationality
Fragmented citizenship in the twenty-first century	**Supra-, sub- and national:** Multi-*level* and multi-*space* citizenship (EU)

respectively, became bundled in the late twentieth century. This was followed by a gradual fragmentation of the bundle when changes were introduced, such as the right to vote and stand in local elections for all EU citizens, the right to free movement, and the right to vote and stand for election in European Parliament elections (Shaw 2009). As is well documented by the six decades of 'European' citizenship practice, the EU's non-state polity has been able to constitutionalize some of these fragmented rights and bestow them with a new constitutional quality.

As citizenship practice unfolds in different sites of contestation, it qualifies the historical elements of citizenship. Accordingly the 'new geography of citizenship [was] thus defined by borders and the right to move across them, by belonging to a multiplicity of places, and by the terms of participation, access and control within a polity without political centre' (Wiener 1998: 301). As citizenship practice evolves in the regional context of the EU, member states are held responsible for granting supranationally derived rights and implementing the associated policies.

As citizenship practice transgresses community boundaries, and the social construction of non-state institutions proceeds, a remarkable change has taken place. While previously the state was considered as the political organization with the authority to grant and protect citizenship, it has now become embedded in citizenship. As Delanty notes,

> [N]o longer exclusively defined in terms of a relation of the state to the transnational or European level of governance, the EU became increasingly implicated in citizenship. Accompanying this was a shift from 'government' to 'governance' to reflect '*the embeddedness of the state in citizenship*'.
>
> *(Delanty 2007: 66, emphasis added)*

Seyla Benhabib further notes that the state's role in IR has changed in a dual way. '[*V*]*is-à-vis* peoples' cross-border movements, the state remains sovereign, albeit in a much reduced fashion.' However, '*vis-à-vis* the movement of capital

and commodities, information and technology across borders, the *state today is more hostage than sovereign*' (Benhabib 2007: 25, emphasis added). Now, novel acts of 'civil disobedience' (Isiksel 2010) and the actions of non-state actors such as the European Court of Justice (ECJ), lead to the implementation of citizenship rights inside a nationally constituted polity.

The reversal of the citizenship–state relation suggests a change of perspective. It implies crossing the boundaries between inside and outside the civilized territory of citizenship, thus opening up a new perspective on the erstwhile inside/outside dilemma of citizenship. The theoretical move towards practice-oriented citizenship studies underlines the need to conceptually account for the diversified actorship of citizenship practice. As non-state actors' citizenship practice is added to the range of individual citizenship practice in the struggle over rights, access and belonging to a polity, the polity itself becomes contested. Moving away from familiar concepts of modern citizenship, where states provided the key indicator of an emerging political community, we can identify new types of communities (Table 5.1). In the process 'communities of practice', which derive the extension and purpose of communities from social interaction (Adler and Pouliot 2011; Wiener and Vetterlein 2012), have become more powerful than modern concepts of citizenship that require a given community.

The dual security problematique

In IR the untamed Hobbesian outside matters more than the civilized inside of states. The latter has remained the terrain of citizenship since the classics (Kratochwil 1994) and, with a few notable exceptions, has been studied mainly by political theorists.[3] Both the outside and inside are parts of a narrative about the normative global order of the international society of states. While the Peace of Westphalia in 1648 established the ground rules for centuries of interstate relations, it also marked the bounded territory of political struggle over authority, justice, and democracy for citizens. This inside versus outside perspective coined the definition of IR as inter*state* or inter*governmental* relations, conducted by diplomats or government representatives. Accordingly, citizenship and citizens' interactions, and their constitutive impact on the global normative order, were left largely to one side (Morgenthau 1948; Waltz 1979; Walker 1993).

It follows that the act of creating citizens as political beings was intended to protect vulnerable individuals from security threats through affiliation with a group. It established the status of citizenship qua membership in a bounded political community. At the time, 'individuals left the state of nature by granting each other determinate rights and duties, the rights and duties of citizens. *Between their respective political associations, however, the state of nature continued to exist*' (Linklater 2007: 18, emphasis added). Thus, while perceived as the core element in the process of creating a civilized sphere for citizens, the act was also constitutive of a *dilemma* in global politics (Benhabib 2006). Although political communities were identified as territories of citizenship where nature had been tamed, they were,

nevertheless, still situated within an untamed global context. Even though the Hobbesian 'state of nature' was now further removed from the individual who, qua citizenship, enjoyed protection within her political community, it nevertheless remained a security threat, albeit an indirect one. The state of nature was now predominantly played out through emerging interstate relations.

Internal civilization that is exclusively possible within the safe haven of such a polity comes at the cost of growing external security threats. These threats are on the increase as a consequence of processes of globalization (Albert 2007), processes which are all-pervasive yet remain unmatched by the rather elusive and scattered instances of constitutionalization. According to the modern inside/outside logic of citizenship and sovereignty (Tilly 1975; Walker 1993), Linklater's ethical dilemma, introduced above, can only be overcome once globalization is matched by constitutionalization (Peters 2009). Constitutionalization is here defined as a process by which institutional arrangements in the non-constitutional global realm take on, or are redesigned with reference to, a specific constitutional quality. How this quality evolves precisely, and on which – normative, functional or pluralist – grounds it is required, remains subject to debate and further systematic research (Wiener *et al.* 2012). Alternatively, a practice approach to citizenship, which focuses on constitutional quality from a bottom-up perspective, enables thinking along the lines of the 'universalism of the particular' (Walker 2011). There is, therefore, a call for much more detailed and large-scale research on the potential shift from globalized to constitutionalized IR.

This chapter uses a distinction between safety and security to express the implied dual security *problematique*. It distinguishes between a 'thick' concept of security, defined as the safety of citizens based on citizenship inside political communities, and a 'thin' concept of security, defined as the policy measures of global security governance. Accordingly it is possible to understand the distinct impact of citizenship practice on cities, nation-states or non-state polities. It is argued that, as citizenship practice reaches beyond these types of polity, the 'safety' of citizens has become threatened. Two types of practice demonstrate this shift. On the one hand, the *globalized citizenship practice* of going and staying away means that citizens leave the safety of constitutional communities; on the other hand *newly empowered international organizations*, such as the UNSC, conduct security practices in the name of civil protection or the 'war on terror'. These new security practices, which are implemented in a top-down fashion, are likely to interfere with fundamental personal rights; take, for example, the 'black-listing' of individuals suspected of cooperation with terrorist groups, or detention without arrest warrants in cases where terrorist activity is suspected. Such practices therefore call for scrutiny regarding the protection of the fundamental rights of individuals. At the same time, a bottom-up process of citizenship practice has involved border crossing as part of a process which has led to the stipulation of new supranational citizenship rights and principles via new regionally based constitutional organs such as those of the EU.

Therefore, global citizenship practice entails two aspects of globalization. On the one hand it addresses the diffusion of citizenship practice into the global realm (where the safety of citizens can no longer be guaranteed as long as the international

society of states operates according to modern expectations). On the other hand, citizens who do not engage in global activities are affected by the movement of others in the process of coming and going and staying away. Regarding the inside/outside dilemma, the key question is whether the extension of citizenship practice into the international realm is powerful enough to constitute the institutional terms of citizenship required to counter the effect of security practices. To address this question we need to turn to key constitutional principles and the ways in which they are upheld or contested in both processes. Who is responsible for the protection of fundamental rights when the obligation of states to protect their citizens is no longer in place? As the following examples suggest, the options for replacing this state obligation with new institutions depend on the degree to which regional, or indeed global, international organizations are constitutionalized.

Moments of contestation – a new critical juncture in the trajectory of citizenship practice?

As the more technical, institutional, interstate security arrangements are no longer sufficient to establish citizens' safety, the spotlight is increasingly on the well-being of the individual citizen. Citizens' well-being can be threatened by new security practices which challenge their safety and thus undermine citizenship (Edwards and Meyer 2008). To examine this chapter's main argument, this section focuses on moments of contestation as a way of exploring the ethical dilemma which follows on from the assumption of territorially organized sovereign states. To that end it works with the citizenship practice approach, operationalizing it in the following way. First, citizenship practice is defined as the policy and politics which are constitutive of the institutionalization of citizenship in a polity. In turn, security practices are the policies and politics carried out in order to protect citizens from terrorism and other security threats. Studying moments of global citizenship practice – where the dual security problematique brings conflictive encounters between both types to the fore – is expected to reveal the nexus of the security-safety aspect of the ethical dilemma. In addition, these moments of contestation are expected to offer insights into potential new layers of constitutional quality, given that citizenship practice is defined as the process of policy making and politics that establish the institutional terms of citizenship.

The likelihood for the two sets of practices to conflict, and hence to provide a space for the negotiation of new institutions, follows from the unintended safety threat which is often inherent in those global governance measures that operate according to the rationale of efficiency rather than justice or democracy, and which therefore lack the normative roots of constitutional principles. Thus, while security practices are intended to protect the safety of citizens, it nevertheless could be that they are in breach of the fundamental rights of individuals. That is, they ultimately threaten citizens' safety. The scenario is better understood once we recall that, in the global realm, international organizations operate as new types of actors who intervene in citizenship practices.

Global citizenship practice, therefore, needs to take multiple actorship into account. Thus non-state actors are likely to be as influential as individual citizens in constituting the institutional terms of citizenship. By performing security practices, on the one hand, and by taming security practices by supporting the fundamental rights and hence the safety of individuals, on the other, these actors intervene in the process of constituting and reconstituting polities. Their contribution to global citizenship practice needs to be understood as a distinctive input to the constitutional layer of the emerging global polity. While more specific research is required, to cover a wider range of empirical case studies, the following discussion refers to two examples where citizenship practice extends beyond the boundaries of both the nation-state polity, and the European non-state polity, in order to challenge security policy with reference to fundamental norms.

In one case, the contested security policy is challenged with reference to the prohibition of torture and the breach of that norm by US government representatives and civil servants outside US territory. In the second case, the contested security policy was to be implemented in the EU's non-state polity and was challenged with reference to the breach of the fundamental rights of individuals by the UNSC. Both cases demonstrate how the double security problematique triggers citizenship practice, and how the relationship between individual actors and the polity is re/constituted in the process. Both are legal cases which have generated quite some debate, mainly among legal scholars and lawyers, but increasingly among social scientists as well. One is the *Kadi case*; the other is the *Rumsfeld case*. Both shed light on the conflictive encounter between security practices and citizenship practices in a global context, and how this encounter forges a new constitutional layer of global citizenship.

The Kadi case

The *Kadi and Al Barakaat*[4] *case* (hereafter, the *Kadi case*) involves the UNSC, the ECJ and a number of EU member states, apart from the litigants. It demonstrates the way new policy instruments work to implement new security practices, based on policies introduced in the aftermath of the Taliban and Al-Qaeda terrorist actions, respectively, and initiated by the UN's Sanctions Committee. One such example focuses on the decisions, made by the UNSC in the name of security, that have had serious repercussions for personal liberties (De Búrca 2010; Isiksel 2010). Among these security practices was the UNSC's decision to use smart sanctions. These security practices in the global realm were originally generated with the establishment of the UNSC Sanctions Committee in 1998, in response to Taliban activities. The practices were challenged with reference to constitutional rights when a blacklisted individual – a Saudi national with a business in Sweden – contested the EU Council regulation endorsing the freezing of his assets and his right to free movement in the EU. In its judgment the ECJ held that these security practices were in breach of the EU's normative order and, especially, the respect of fundamental rights (De Búrca 2009; Kumm 2009). The ECJ overruled the judgments of the

Court of First Instance (CFI) in its 2008 judgment. It annulled Council Regulation 881/20024 which had imposed restrictive measures against persons and entities associated with Osama bin Laden, the Al-Qaeda network, and the Taliban, noting the EU's breach of fundamental rights. It is important to note that the ECJ stressed that it had no authority to call into question the lawfulness of UNSC resolutions. However, it also stressed that as long as the UNSC did not provide sufficient protection for the fundamental rights of individuals, the EU's own normative order had to provide that protection instead.

This case is of particular interest because of the involvement of non-state actors as opposed to states. While international organizations are typically based on state membership and therefore not held responsible for organizing accountability themselves, the *Kadi case* suggests a change. Now,

> the UN Security Council has begun to exercise *legislative-type powers* under Chapter VII of the Charter, as in its adoption of resolutions requiring states to freeze the assets of individuals suspected of supporting terrorism, and its establishment of the Counter-Terrorism Committee and the Sanctions Committee.
>
> *(De Búrca 2008: 8, emphasis added; see also Fremuth and Griebel 2007: Hinojosa 2008)*

In other words, the role of IOs includes agenda-setting, territory controlling, sanction-setting and so forth. Notably, the actions taken by international organizations in the name of security offer an empirical access point to discuss the normative issue of enduring shortcomings of international law when it comes to the protection of individual rights. Notably, with this judgment the EJC has begun to bring the EU's own legal order to bear both with regard to fundamental rights protection by other international organizations and with regard to European citizens. By bringing the EU's own normative order to bear during various steps of the judicial decision process, the ECJ stressed the importance of fundamental individual rights protection in contexts beyond the modern state. The EU's non-state polity is thus presenting itself as a relatively stable polity with an autonomous normative order that is increasingly consolidated through citizenship practice.

It has been argued that this interaction between the ECJ and the UNSC has mainly had the effect of sustaining the EU's normative order with a thick constitutional layer. For example, Isiksel argues that the ECJ's involvement in the *Kadi case* is best considered as an act of 'civil disobedience' which signals 'a prioritisation of the status of fundamental rights norms within the supranational constitutional architectonic' (2010: 552, 553) that strengthened the EU's constitutional quality. I suggest that the ECJ's decision on Kadi represents a critical juncture in international relations, insofar as it demonstrates the growing influence of non-state actors in global power relations. By contesting the UNSC's security practices and condemning them as undermining the fundamental rights of individuals, the ECJ interfered in the terrain of international law. While this act has been beneficial for EU citizens,

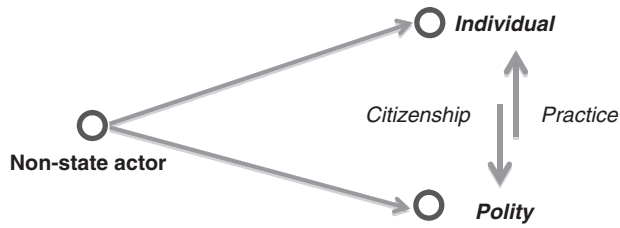

FIGURE 5.3 Global citizenship practice

it is likely to set new standards for handling the fundamental rights of individuals on a global scale. Since the ECJ addressed another global actor, the UNSC, in its judgment, and made explicit reference to the fundamental rights of individuals, its intervention can be considered as a non-state actor's engagement in citizenship practice. This changes the original constellation of the constitutive elements of citizenship practice towards the inclusion of non-state actors (Figure 5.3). Other non-state actors that matter for constituting the constitutional layer of an emerging world polity are UN institutions, especially the UNSC and the UN Convention of the Law of the Sea, as well as other regional institutions such as the European Court of Human Rights (ECtHR).

The Rumsfeld case

This case involves a human rights lawyer, Wolfgang Kaleck, from Germany, a non-governmental civil rights organization, the Center for Constitutional Rights in New York, Donald Rumsfeld, a former Secretary of State of the USA, as well as a number of other high ranking US government and military officials, and the public as presented by the media. In contrast to the *Kadi case*, the *Rumsfeld case* was not tried in court. It was brought before the German Constitutional Court (BVG) with reference to the German Criminal Code of Crimes Against International Law (CCAIL).[5] This code establishes the possibility of universal prosecution of crimes against humanity, and stipulates with §1 CCAIL that cases of international criminal law can be filed in Germany under its universal jurisdiction statute, which allows Germany to prosecute serious international crimes regardless of where they occurred or the nationality of the perpetrators or victims (compare Kaleck and Wiener 2007). The charges against Rumsfeld and nine further plaintiffs filed by a human rights lawyer on behalf of 13 Iraqi victims included 'War crimes against people', German Criminal Code of Crimes Against International Law (CCAIL) §8, §4, §13 and §14; 'Grievous bodily harm,' German Penal Code (StGB) §223, §224; §6 No. 9, German CCAIL §1, and the *UN Convention on Torture*.

Overall, Rumsfeld has been charged five times with direct involvement in torture as a result of his role in the Bush administration's programme of torture post-9/11. Two previous criminal complaints were filed in Germany under the same universal jurisdiction statute. One case was filed in 2004 by CCR, the International

Federation for Human Rights (FIDH), and Berlin attorney Kaleck. That case was dismissed in February 2005 in response to official pressure from the US, in particular from the Pentagon. The second case was filed in 2006 by the same groups, as well as dozens of national and international human rights groups, Nobel Peace Prize winners and the UN's former Special Rapporteur on Torture. The 2006 complaint was presented on behalf of 12 Iraqi citizens who had been held and abused in Abu Ghraib prison in Iraq, and one Saudi citizen still held at Guantánamo. This case was dismissed in April 2007, as was an appeal against this decision in the same year. Two other cases were filed against Rumsfeld, in Argentina in 2005, and in Sweden in 2007. While the German Federal Prosecutor decided against proceeding with the case on 10 February 2005, with regard to global citizenship practice and the double security problematique this case nonetheless opens a new perspective on interventions in global citizenship practice by NGOs.[6] The 13 Iraqi victims sought support from abroad given that the institutions of the Iraq polity were unable to protect their fundamental rights.

The imbalance of fundamental rights protection which has been triggered by the encounter between security and citizenship practice raises the following questions for research on global citizenship practice. First, are the constitutionally granted fundamental rights of citizens – required to establish the safety of citizens and lost by the diffusion of citizens into the global realm – likely to be countered by acts of global citizenship practice establishing institutional terms of global citizenship? Second, how does the definition of citizenship change, and what is the role of non-state actors in this process? Which are the communities that matter for the protection of individual safety, and where do they emerge? Which practices carry constitutional quality and which are merely an expression of globalized policy making?

While the UN's organizational format still reflects the Westphalian pattern of sovereign states 300 years on, nevertheless, since its founding in 1948, international actor constellations and political input have been changing. With the Universal Declaration of Human Rights the fundamental rights of individuals were given a prominent place in the normative world order;[7] thus, the declaration 'concerns matters *between the state and its own population* (*vertical* approach) rather than inter-state relations' (Rosas 1995: 62, emphasis added). The two most far-reaching proposals, which seek to establish a more rigorous constitutional quality in the international society of states, consist, first, of a global constitution establishing a global polity based on the UN Charter (Fassbender 2009), and second, in the suggestion to scrutinize global democracy based on a global community of states where all members enjoy equal sovereign rights (Cohen 2004, 2008). While both turn towards constitutional theory in an effort to enhance conditions of democracy and justice in the global realm, they do not refrain from relying on the uncontested status of *sovereign states as the constituent units* of the normative global order. With regard to this chapter's main argument, then, this would suggest that the ethical dilemma is here to stay.

However, if we take observations from legal scholars into account, then it is notable that the sovereign status of states has been under duress for quite some time.

This is well documented by the gradual process of moving aspects of sovereignty from EU member states to the EU polity with the 1967 ECJ judgment *Van Gend en Loos*, and a number of judgments since. Among distinctive landmark cases were the rulings in *Van Gend and Loos*,[8] *Costa* vs. *ENEL*,[9] the *Solange* and the *Martinez Sala* rulings, as they contributed to a change in the formal interpretation of the fundamental norms of sovereignty, fundamental rights and citizenship.[10] Thus, the ECJ's ruling in *Van Gend and Loos* established the principle of direct effect; this confers rights on individuals which they can invoke before the national and Community courts. The principle promotes Community law becoming part of national law and strengthens its efficacy. In addition, it safeguards the rights of individuals in that they can invoke a Community provision, irrespective of whether a national text exists or not. The ECJ's ruling in *Costa* vs. *ENEL* established the principle of supremacy of European law over national law in relation to matters covered by the treaties.

Both rulings have established a change in the quality of member state sovereignty since the 1960s. Apart from ECJ rulings, the impact of the changed status of sovereign states has been brought to the fore by incidents in which the traditional role of sovereign states vis-à-vis their citizens has been addressed. One of the traditional roles of states is precisely the issue of protecting citizens' safety in line with constitutional principles, fundamental rights and norms (for example, the *Kadi case*). Once these are in place, and duly protected globally, we can begin to speak of an emerging global polity. Turning to specific legal cases allows us to address the key, underlying, question of this chapter, namely, whether a thinning out of citizenship in the nation-state polity necessarily results in a loss of constitutional quality, or whether constitutional quality might be 'added' elsewhere. The latter outcome is based on the assumption that constitutional quality, once established, does not vanish but may resurge in another place.

Conclusion: a new critical juncture?

This chapter has focused on the ethical – inside/outside – dilemma of citizenship, and the tension between citizens' safety and security measures, and has explored the potential for dialogue between citizenship and security studies. Working with a practice approach to citizenship, the chapter set out to scrutinize the assumption of the stable sovereignty of states, arguing that this assumption lies at the root of an ethical dilemma. The chapter has argued that once citizenship practice is defined as the relationship between an individual and the polity – with this relationship being constitutive of a specific type of polity – and once intervening actors such as international organizations are brought into the analysis, the sovereignty assumption of states needs to be revised, and new layers of constitutional quality identified in the global environment. The development of Union citizenship in the EU, the case of international citizenship practice in relation to the *Kadi case*, as well as the multiple actor involvement in the *Rumsfeld case*, suggest a further change in the cyclic development of bundled and fragmented citizenship. On the one hand, the EU's polity tends towards bundling rights in its strengthened normative order; on

the other hand, it is possible to detect the emergence of a renewed fragmentation of citizenship rights based on global citizenship practice.

While it is too early to make claims about a global polity, this chapter's findings have established the grounds for further exploring how these different perspectives on citizenship might play out in the future. As an organizing principle able to counter the safety challenge of a range of technical security practices, citizenship is likely to acquire a more prominent role in IR theory. Especially with a view to establishing access to constitutional rights, such as judicial review in international relations, students of international relations require a better understanding of how the tension between the constitutive and historical elements of citizenship plays out within the global realm. Global citizenship practice – understood as the process by which the institutional terms of citizenship are established to constitute the triad of rights, access and belonging – matters for the constitution of a global polity in two ways. First, European citizens and/or residents have been put into the privileged position of enjoying access to additional judicial protection when national jurisdiction fails (as with the *Kadi* case). In regions that lack similar regional judicative organizations, citizens will not enjoy the same access rights. In addition to world-wide inequality based on economic factors, unequal access to constitutional rights presents a further imbalance. As this article suggests, the mere protection of the culture of equal sovereignty based on the UN Charter does not suffice to address equality on a global scale. Second, it is held that if citizenship practice is a constitutive element for the constitution of communities, then research on changing citizenship practice will provide cues for community formation within the global realm, and – potentially – outside the modern setting.

Further research on global citizenship practice will benefit from addressing three interrelated sets of questions: *First (empirically)*, whether the kind of institutions that were constituted through citizenship practice at the regional level are powerful enough to protect individual rights beyond the boundaries of nation-states. And, related to this, given that earlier citizenship practice was constitutive for the city-state, the nation-state and the regional non-state, whether citizenship practice leads to the constitution of the global polity as a fourth type of polity. *Second (normatively)*, which organizing principles or institutional changes are required for democratic standards such as fundamental individual rights, democracy, the rule of law and citizenship to be respected in response to, and despite, new security measures? Are the two prevailing types of polities which have been constituted through citizenship practice – that is, the nation-state and the regional non-state – both still adequate forms of political organization in the twenty-first century? *Third*, and most *generally*, what kind of constitutional measures are in place to protect individual rights as citizenship practice diffuses to the global realm?

Notes

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2 UNSC Resolution 1267 (1999) established a 'Sanctions Committee' responsible for designating the funds or other financial resources which all member states must freeze to ensure that they are not made available to, or for the benefit of, the Taliban, or any undertaking owned or controlled by the Taliban.

3 The term 'civilization' is defined with reference to the act of constituting citizenship to protect individuals, as members of a political community, from the outside world. It is thus distinguished from recent work in IR that studies civilization as a sociocultural process in the Eliasian sense.

4 European Court of Justice (2008) 'Yassin Abdullah Kadi and Al Barakaat International Foundation v. Council of the European Union and Commission of the European Communities, Cases C-402/05P and C-415/05P, 3 September 2008', EUR-Lex, The Publications Office of the European Union <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:62005J0402:EN:HTML> (accessed 17 June 2012).

5 This law has been in force since 30 June 2002.

6 Including the International Federation for Human Rights (FIDH), the European Center for Constitutional and Human Rights (ECCHR), Berlin <http://ecchr.eu/organisation_en.html> and the French League for Human Rights <http://www.ldh-france.org>.

7 For the Universal Declaration of Human Rights, see the UN Website <http://www.un.org/en/documents/udhr/index.shtml> (accessed 19 January 2011).

8 European Court of Justice (1963) 'Van Gend and Loos v Netherlands Inland Revenue Administration, Case 26–62, 5 February 1963', EUR-Lex, The Publications Office of the European Union <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61962CJ0026:EN:HTML> (accessed 17 June 2012).

9 European Court of Justice (1964) 'Flaminio Costa v E.N.E.L., Case 6–64, 15 July 1964', EUR-Lex, The Publications Office of the European Union <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:61964CJ0006:EN:HTML> (accessed 17 June 2012).

10 For details see also Kumm 2011; for the German Constitutional Court's *Solange* ruling see Dunoff and Trachtman 2009.

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PART II

Insecure state–citizen relations

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6

MARKETING SECURITY MATTERS

Undermining de-securitization through acts of citizenship[1]

Anna Leander

This chapter suggests that marketing by private security companies is undermining the potential for de-securitization through acts of citizenship, not because of spectacular fear mongering, but because of the scope for acts of citizenship and securitization it re-produces. To make this point I look at the decidedly sober web-marketing of the respectable commercial security company Control Risks (CR)[2] and explore how it co-constitutes the two processes at the core of this volume: acts of citizenship and securitization. I argue that marketing restricts the space for 'acts of citizenship' (AoC)[3] to reclaim politics/constitute political subjectivities, and entrenches 'securitizations' that turn something into an existential threat[4] (see Figure 6.1). This argument addresses a broader concern, namely what happens to the potential for de-securitization through AoC in a context that goes under the general (disputed and ambiguous) name 'neo-liberalism',[5] where an increasing number of things (including security) are governed through (quasi-)market mechanisms. The chapter does not (and could not possibly) analyse all the processes linked to the commercialization of security. Instead, it focuses on one specific process – marketing by security companies.

The reason for singling out marketing is that, in contemporary society, it plays an increasingly important role in creating value and meaning (see, for example, Arvidsson 2006). More than this, however, the visual plays an important role in creating meaning. This is captured below with reference to the 'intertextual' linking of images and text. While images and visualization have had a place in International Relations (IR) discussions – including those surrounding security (e.g. Shapiro 2011) – the images produced by companies to market themselves have been conspicuously absent. This chapter aims to address this gap. It does so by analysing how the web-marketing of one company – Control Risks – is co-constituting the space for de-securitization through AoC. This analysis of CR's marketing is used to tell a 'typical story', as Abbott puts it (2001: 160).[6]

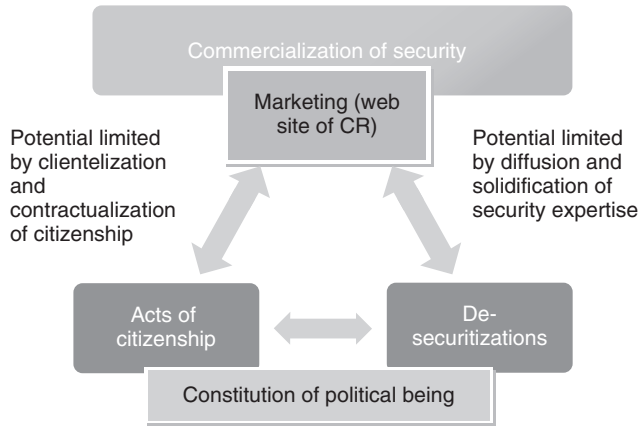

FIGURE 6.1 Marketing shaping the acts of citizenship – desecuritization link

It is a story about 'co-constitution' in a dual sense: not only are there many other meaning producers[7] but, as with most contemporary marketing, CR integrates its clients to co-formulate meaning and values (e.g. Lury 2004). This is *not* a deterministic story about CR dictating the prospects for AoC and/or securitizing processes.

To tell this 'typical' story about how markets matter for the constitution of political being, the chapter proceeds by analysing how CR's marketing co-constitutes first the space for AoC and then for de-securitization. The result is analogous for both processes (AoC and securitization): while marketing holds some potential for enlarging the space for each process, this potential is countered, or even reversed, by the strictures it also formulates. First, while marketing supports a non-statist framing of the right to claim protection rights that ought to broaden the scope for AoC, this is more than outweighed by the clientelization and contractualization of this right in CR marketing. The end result is that the scope for AoC is restricted. Second, while CR's marketing banalizes security, which ought to ease de-securitization, its contribution to the diffusion and consolidation of security expertise hampers any critique of securitizing moves, thus entrenching securitization. With the scope for AoC restricted, and securitizations entrenched, the space marketing co-constitutes for re-politicizing securitized spaces through AoC appears limited. However, precisely because this is a typical story of co-constitution, it is worth telling. Recognizing that marketing, even when unspectacular, matters, is a first step towards resisting the 'discursive harm' it does.

Restricting the scope for acts of citizenship

If citizenship is the right to have rights as Arendt (1979/1951), for example, would claim, one way of understanding the enactment of citizenship or 'Acts of Citizen-

ship' is that they are acts claiming this right; and hence of constituting oneself as a political subject with rights (Isin 2008). In this sense, focusing on AoC shifts attention 'from subjects as such to the acts (or deeds) that produce such subjects' (see Isin 2008: 2). One of the more fundamental rights is the right to be protected or to be safe (see Antje Wiener's discussion in this volume). The right to this right is more often than not linked to the capacity to constitute oneself as a political subject of a state from which one can demand the right to be protected. Yet not only do some of the most direct security threats to people come from states, states also have the capacity to deny people their status as subjects to be protected, as well as the possibility of even trying to claim this status. The consequence is that thinking is held in a double bind where the state is acclaimed both as the key source of insecurity and as the main provider of protection (for discussions see Sofsky (1996) and Weber (2008)). Even the most ardent critics of the state seem to have been prone to reinforce this bind as is the case, for example, with Hannah Arendt's work on totalitarianism (Arendt 1979/1951) or Pierre Hassner's critique of state neglect/maltreatment of refugees (Hassner 1998). Both argue that even if the problems they are analysing originate with the state, reclaiming the right to be recognized as a political subject of the state is also the solution. The beauty of markets, at least at first sight, and as reflected in CR's marketing, is that they promise to loosen, if not break, this double bind by weakening the link between states and the right to protection rights. Thus, the right to protection rights can be claimed through markets rather than states. Upon closer inspection, however, this promise turns out to be an empty one. The possibility of voicing one's claim is conditional upon being an economically and politically respectable client, capable of entering a contractual market relationship. This clientelization/contractualization tandem more than counters the potential opened up by marketing for enlarging the space for AoC.

Marketing opening space for acts of citizenship

Security markets share the revolutionary potential of markets more generally. Not only classical liberal (Adam Smith) and Marxian (Karl Marx, himself) thinkers, but also a wide range of sociologists, have been fascinated by the extent to which markets promise to be liberating. As persuasively shown by Karl Polanyi, for example, the invention and imposition of self-regulating markets played a key role in freeing social interactions from the shackles of tradition, 'disembedding' them – as he would say – at an enormous cost. As the title of Polanyi's book tells us, self-regulating markets are at the 'origin of our times', and for him that meant the Second World War (Polanyi 1957). There is, of course, a long tradition, also reflected in Polanyi's work, for showing the extent to which disembeddedness is less radical than thought, as elements of social rules inevitably pervade markets.[8] However, these qualifications have not eliminated scholars' fascination with the revolutionary potential of markets.

CR's web-marketing provides ample ammunition for those who wish to underline the revolutionary potential of markets generating potential rights to protection

rights beyond the state. The company offers a way of circumventing the intractable difficulties that appear when there is no state to demand protection from, when the state does not allow the request to be formulated, or when it is against the state that protection is needed. Hence, the fundamental answer CR offers to the question 'why us?' is that

> the world in which our clients operate grows ever more complex and many are driven to work in overtly hostile environments where protecting people, assets and reputation is a real challenge . . . we have a proven record in helping them manage risk and maximize opportunity.
>
> *(CR 2011g)*

The 'world' CR refers to is one where the possibility of demanding the right to protection rights through states is only available sometimes. Moreover, and according to the website, this possibility is decreasingly available, given the 'growing complexity'. Most of their clients, therefore, have no choice; they are 'driven' to work in overtly hostile environments and to search for innovative ways of claiming their right to protection rights. CR underlines that what exactly is required 'varies between companies, countries and cultures' (CR 2011j). CR leaves little doubt that it plays an important role in resolving this complexity, because it 'enables our clients to pursue their interests wherever in the world they may wish to operate' (CR 2011j). The message here is one of empowering the people, companies, organizations and states that buy CR's services, increasing the possibilities they have for engaging, by ensuring their security. This communication is framed in positive terms. There is no hint on CR's website of an explicit critique of the failure of states to provide protection,[9] let alone of an exclusivist statist framing of the right to claim protection rights. Rather, and characteristically for firms in commercial security, CR presents itself as taking a 'practical approach' to real problems (CR 2011f). Their services focus on providing actors with the possibility of 'pursuing their interests' wherever they want. Unlike many other security companies, CR does not explicitly make the point that their services are a prerequisite for groups or individuals to act in, or sometimes against, oppressive states. However, there are hints in this direction. Under the heading 'Satisfied Clients', CR tells its potential customers that

> although the nature of our work does not permit us to name our clients, they are national and multinational business in all industrial and service sectors, governments from any part of the world and an increasing number of non-governmental organizations.
>
> *(CR 2011k)*

Note that CR underlines the *increasing* number of non-governmental organizations (NGOs), precisely those organizations most often identified with 'political being' beyond the state.

So far, I have shown that CR's webpage marketing is enlarging the potential for AoC beyond the state. In a positive empowering voice, and refraining from criticism of the state, it promises that it can offer services that compensate for the failure of state systems to ensure the right to claim protection rights. It also holds out an alternative. CR makes it possible for those who cannot claim the right to protection rights through the state system to claim them through the market.

'Clientelization' conditioning acts of citizenship

The revolutionary potential of markets is not for everyone. Markets are for those who have the necessary resources – economic, political, cultural and symbolic – to act in them. This is also true of security markets. Hence CR is explicit about the economic and political prerequisites of being a client.

CR provides its services to 'clients' of different kinds, and in different contexts, but always to 'clients' (CR 2011c: passim). It carefully underlines that clients may include the full panoply of actors, individuals, as well as public and private organizations and NGOs, and that it can adjust its services accordingly: 'CR is set up to suit our clients' purpose' (CR 2011k) and

> we review the risks faced by each client on an individual basis according to their areas of operations and the specific threat levels their industry might face. Our philosophy is that no two organizational entities are alike and that a whole host of issues such as the nature of their business, the profile of their employees and the geographical spread of their assets, uniquely determine their level of exposure.
>
> *(CR 2011e)*

The fundamental point is that CR is talking about a variety of *clients*, excluding everyone who is not and/or cannot be a client. To be CR's client is to *buy* its services. To buy services presupposes possession of the necessary means to do so. Inherent in the emphasis on the client, therefore, is an exclusionary hierarchy where those who have (and are willing to use) resources can get the best package, those who need to save can get a slightly lesser package, and those who have no resources at all will be excluded altogether. There is no need for CR to insist on this or spell it out on its webpage. If someone should fail to grasp this simple point, the account manager will quickly dispel the misunderstanding. The expansion of the scope for AoC is, in other words, economically conditioned in the CR web-marketing.

Along similar lines the scope for expanding AoC is politically conditioned. CR presents itself as a law abiding 'good citizen', as the business jargon has it (e.g. Matten and Crane 2005). CR is an 'ethical and independent company' (CR 2011h). It has a code of ethics, which emphasizes that 'all CR employees are required to comply with the laws and regulations of the countries in which they operate' (CR 2011b: 1). It also has a Business Integrity Policy underscoring that

'integrity includes compliance with the law but goes beyond it. Legal thresholds and the standards of companies are constantly rising. Control Risks aims to be ahead of its clients' expectations, not lagging behind them' (CR 2011a: 1). Finally, the company has a Human Rights Policy which includes a pledge to abide by the recognized standards in the area, specifically those defined in the Universal Declaration of Human Rights, the Voluntary Principles on Sovereignty and Human Rights, the Montreux Document and the UN Global Compact (of which CR is a member) (CR 2011l).[10] CR has also developed its own policies on, for example, the use of weapons, whistle blowing, subcontractor management and Third Party complaints. This will no doubt be welcomed by rights activists, lawyers and clients. However, it is also signalling the political conditioning of the AoC CR will support. 'Contesting the laws and regulations' is precisely what AoC do in contexts where these are biased against specific groups or ideas. Hence, even if CR 'has a policy of strict political neutrality' (CR 2011b), this policy entails a profound bias against (in fact, an explicit ban on) activities, including AoC, which transcend the state system and constitute political being against it. To dispel any remaining doubts, CR insists that it 'will cooperate with governments and other official bodies in the development of policy and legislation that may affect our legitimate business interests or where we have specialist expertise' (CR 2011h).

To summarize, the clientelization at the core of CR's marketing articulates a clear economic and political conditioning. Clients have to be economically and politically acceptable. By the same token, the clientelization delineates a restrictive political and economic conditionality for the kinds of AoC it could be mobilized to support. This move is the first to counter the opening to AoC generated by markets.

'Contractualization' disenfranchising citizens

The second way CR's marketing counters the potential broadening of the space for AoC centres on how it plays into the broader contractualization of citizenship. The 'contractualization of citizenship' is 'an effort to reorganize the relationship between the state and the citizenry, from non-contractual rights and obligations to the principles and practices of *quid pro quo* market exchange' (Somers 2008: 2). This transformation disenfranchises people (and institutions) who do not/cannot fulfil their contract, and hence further restricts the space for AoC. CR's marketing reinforces this transformation.

In what Turner terms the 'constant battle between *schism* driven by material interests and *solidarity* forged by common values' (2008: 183), CR's marketing decidedly weighs on the former side. It does so through the political and economic conditioning intimated by Turner and discussed above. However, this conditioning is an expression of a more far-reaching and radical individualization that is part and parcel of the contractualization process. The contractualization of citizenship is a process whereby an understanding of citizens as members of a community with a general common purpose is unsettled/displaced by a contradictory and incompatible understanding of citizens as individuals who sign contracts

(Åkerstrøm Andersen 2008). They sign contracts with the state and, even more radically, in many contexts they sign contracts with themselves (Åkerstrøm Andersen 2007: 119). This contractualization expresses a displacement of responsibility: from the community to the individual. The individual is responsible to the state, the social worker, and herself for fulfilling the contract. Not fulfilling the contract breaks the relationship, and with it the right to claim rights to welfare, support, security and so on. Citizens that do not fulfil their contracts lose their rights. The entitlement to the right to rights is based on living up to the contract, not on sharing values or belonging to a community. This understanding of citizenship is the one communicated in CR's marketing, particularly in how the company frames its support for those seeking the right to protection rights. CR offers anonymous 'clients' the possibility of buying its security services not because they share certain values, but because they can enter a contractual relation. More than this, CR's marketing echoes the understanding that its clients also have to sign contracts with themselves, as for example when it explains that 'employers have a duty of care to support their employees to cope effectively with these [risk and security related] challenges' (CR 2011f). This distancing of citizenship from values and community is starkly captured by the images CR uses. The image on the web page 'Why us?' shows a typical boardroom table with empty chairs (CR 2011g). The counter image would be an agora where embedded and embodied people debate and disagree on the common good. The point to note about the CR's boardroom image is that there is no need to populate it with embedded/embodied people; anyone who can live up to a contract is invited to take the chair. The rest are not. They are disenfranchised.

The way CR's marketing constitutes the prospects for AoC is discomforting. CR's marketing holds out the promise of enlarging the space for those wishing (or having no choice but) to escape traditions (such as the statist framing of the right to claim protection rights). On closer inspection, this promise is a delusion. The economic and political conditions under which the promise will be kept are highly restrictive. As I have just demonstrated, contractualization restricts the promise to those with the necessary resources, and clientelization disenfranchises those who do not have the resources to live up to their contracts. Thus, while it is useful to recall the potential of AoC against all odds (including, for example, the post 9/11 'accidental citizenship' in the US (Nyers 2006)), it also important to recall (as this section has) that if the 'accidents', subversions and diversions that re-politicize securitized spaces are not to become rare to the point of disappearing, it is essential to pay attention to the processes that restrict the space for AoC, including marketing by companies such as CR.

Entrenching securitization

The rather discomforting image of how marketing co-constitutes the prospects for AoC could perhaps be balanced by its potential role in bolstering de-securitization. Securitization processes are mostly associated with (and studied through) states and

their armed forces, suggesting that these are the main locus of insecurity. Indeed, 'liberals' have long hoped and suggested that non-state entities, including companies and markets, could be counted on to play a positive role in limiting insecurity and war generally. Taken into the discussions surrounding (de-)securitization processes the question is, are they right? Can commercialization be counted on to co-constitute a 'politics of insecurity', shrinking the securitized realm and the scope of the securitized, and thus enlarging the space for 'a politics that invests and articulates visions of the political – of the nature and place of political community and practice' (Huysmans 2006: 10). Analysing CR's marketing leads to an answer in the negative. Even if CR's marketing facilitates de-securitizing moves by rendering insecurity a banal/normal matter of everyday risk management, it also entrenches securitization. It does so first by rendering security expertise more diffuse and de-securitizing moves more difficult to direct, and second by rendering it more solid/scientific, making the contestation necessary to de-securitize harder to articulate.

Banalization facilitating de-securitization

Securitization is usually discussed as a grand and spectacular event. Thus a 'speech act' transforms an issue into an existential threat that warrants 'exceptional measures' and distinguishes it from 'normal politics'. For this event to take place, certain 'felicity conditions', that make it possible to persuade the relevant 'audience', have to be fulfilled (Buzan *et al.* 1998). Commercial security certainly does not contribute to this kind of securitization. On the contrary, commercial security emphasizes the 'normal' and 'unexceptional' about security and is very careful not to engage in fear mongering.

CR's marketing illustrates this point. There are no grim images from wars or terrorist attacks. Quite the opposite, in fact. In its discussion of 'Security Management and Consultancy', under the heading 'What We Do', CR has placed a picture of an anonymous hand placing the missing piece in a puzzle (CR 2011e), presumably indicating that CR can help fill in the one missing piece in a company's strategy. The only image on the webpage with any direct pictorial reference to violence is one directed not primarily at clients buying security services but at potential participants in CR's training programmes (CR 2011d). Similarly, there is little trace of 'securitizing wording'. Instead, the entire webpage is framed around an emphasis on the specific and contextual risks of the individual client. Indeed, the sentence immediately following the heading 'Security Management and Consultancy' is 'You know that the global risk climate has changed' (CR 2011f). You (not CR) feel the pressure of risk and need services to manage it. The overall approach of CR's marketing emphasizes the inevitable presence of risks that have to be managed. Unfortunately, CR seems to say, risks are a banal and inevitable part of everyday business life. Consequently (and this time explicitly) CR offers to 'advise organizations on developing and implementing an overall corporate security strategy'. CR is focusing its communication on banal, routine procedures,

not on the exceptional and the extraordinary. This is reinforced by the way CR's marketing locates security-related risk management services in direct connection with other services. Under 'What We Do', business intelligence, business ethics, legal technologies, business continuity services, and governance and development are listed at the same level as security management and political risk analysis (CR 2011e). This presentation reflects the evolution of CR's activities from an initial focus on protection against kidnapping and executive security to a far more general focus on risk management, including assessment of investment-related risks, risk linked to financial transactions and operational risks.[11] Hence for CR, as for many other companies in commercial security, it is only logical to consider security as one among many risks to be managed. This levelling of types of risk, and their constant overlapping, underlines the extent to which the management of security is part of the banal and normal risk management that any company is required to engage with. Quite simply, security is integrated in the general move to 'organize uncertainty' or to risk manage 'everything' (Power 2004, 2007).

CR's marketing communicates a world where insecurity is a banal and omnipresent feature of life, and risk management the normal response; a world where 'speech acts of insecurity are less important in securitization than various social and political processes' (Huysmans 2006: 150). This banalization should enhance de-securitizing moves. On the face of it, refusing the extension of security measures in this normalized environment is relatively easy and legitimate. The introduction of new risk management tasks in companies, governmental organizations and/or NGOs, and the related redefinition of professional roles (including the transformation of the tasks of Central Risk Officers to also cover security) entail the reallocation of resources and reshufflings of authority that one would expect to trigger reactions, including successful ones. A recent study confirms that, in Denmark at least, this is indeed the case. The enlargement of security functions is more often than not resisted by companies where security officers find themselves isolated and marginalized in their attempts to introduce new security measures/functions (see PET and DI 2010). Whether or not this is characteristic of the situation elsewhere, it underscores the extent to which banalizations of security, such as that inherent in CR's marketing, has the potential to limit securitizing moves and perhaps also to more openly question securitizations that have already taken place. Banalization makes de-securitization part of the normal, everyday contestations that take place in organizations and among people.

Diffusing expertise disorienting de-securitization

The opening in CR's marketing towards the co-constitution of a context in which de-securitizing moves are eased is, however, rapidly closed off. First, because the world of banalized insecurity is also one where authority over, and management of, insecurity and risk are highly decentralized, as well as detached from identifiable persons. De-securitizing strategies therefore confront an anonymous, amoebic 'expertise' rather than an embedded, embodied individual. This is disorienting and

makes de-securitization more difficult. CR's marketing increases this disorientation by delineating an understanding of acceptable contestation that excludes contestation if it is not focused on specific acts or people.

CR's marketing makes clear that the company's security expertise derives from networks where the most competent people draw on the most adequate technology on a case by case basis. Hence, CR 'assembles the best and most appropriate team of specialist consultants' for each assignment, with the obvious implication that the members of the teams are constantly shifting (CR 2011j). In addition to this, although the company relies on specific models and categorizations for analysing risks and advising its clients, it adjusts and develops these to suit each contract, through a 'network of offices which work seamlessly to develop and implement strategies anywhere in the world' (CR 2011j). Security expertise is, in other words, anchored in shifting and adjustable networks and technologies that are generated on a case by case basis and produce case by case strategies. The form of securitization this kind of expertise produces is, therefore, not only amorphous, but also volatile, and therefore fugacious and self-sustaining. It has a lot in common with the processes through which risks spread in organizations[12] but only distantly resembles a conventional speech act (a priest creating a marriage by declaring it, for example). For de-securitizing strategies, this is of considerable import. The move from the personalized, fixed, institutionally embedded and visible implied in the speech acts of security to the networked, technological, impersonal, and de-localized securitizing by CR, poses a major challenge. One can argue with a speaker (priest or security expert) about security, rights, and the common good and contest his/her authority. It is more difficult to do the same with an impersonal network or with technological models, especially if these are constantly shifting. It is more difficult to be an active citizen in relation to a network where authority is at best diffuse.

CR's marketing deepens the challenge by making contestation of diffuse authority appear illegitimate and unwarranted. It does so by underscoring that the insiders are satisfied: 'Few consultancies can claim to have retained original clients through more than 30 years of growth and development, but Control Risks can' (CR 2011k). The emphasis on insiders' satisfaction makes outside contestation tenuous. If CR's clients want the company's services, the logic goes, outside complaint constitutes unwarranted interference. Beyond client satisfaction, if outsiders still want to have a say about CR's authority, CR's marketing has a ready answer. CR presents itself as a good corporate member of the communities in which it operates. CR joined the UN global compact[13] and it has a general Third Party Complaint Policy (CR 2011h). Its code of ethics underlines that it 'will investigate any complaints made by external stakeholders concerning suspected human rights abuses or other professional malpractice' and that, even if not prompted, it 'will consider the risks that transfer of weapons or equipment to local agencies may lead to human rights abuses' (CR 2011b). CR's marketing conveys openness to debate and invites discussion. However, it also sets boundaries for the acceptable, welcome and expected contestation. The

contestation CR encourages is that of directly implicated 'stakeholders'. It focuses on identifiable human rights abuses and violence, especially by public security agencies (CR 2011h). The contestation of amoebic networks and their technologies (both, in all likelihood, perfectly legal) are not on the agenda.

CR's marketing is entrenching the security expertise located in diffuse networks and processes that is inherently difficult to question, *and* it is making the contestation of this expertise appear unwarranted. In the process it is impeding de-securitizing/re-politicizing moves. When Mary Douglas observed similar processes in her work on risk, her conclusion (which was reached in the context of the US, in the 1980s) was that 'congresses and parliaments should repossess themselves' of the authority to manage risks instead of leaving it to professional experts, since this process was integral to 'the latent purposes of the nation as a whole' (Douglas 1992: 79). However, now (as then) even if this admonition was followed it would probably lead the 'repossessed' policy-makers to consult the professional experts. The grip held by these experts (both public and private) on security imaginaries is a second major hurdle to would-be de-securitizing moves.

Solidifying expertise blocking de-securitization

Through its embrace of, and deference to, security expertise, CR's marketing tends to increase the obstacles confronting de-securitizing moves. Indeed, security expertise is difficult to contest, not only because it is diffuse, impersonal and technological, but also because it rests on the qualified judgements of professionals who know which securitizations are warranted. The more solid this expertise is, the more difficult it becomes to question it.

First, and most explicitly, CR markets its own expertise, including the relevant qualifications of its staff. Contrary to its clients, CR has the expertise and knowledge necessary to judge security issues. 'While you're aware of security issues, you might not be focusing on the right ones' (CR 2011e). CR does know how to judge security issues, and insists it does. Its marketing is replete with references to expertise and professional knowledge. Characteristically, the first thing CR tells readers about their approach is that it is 'applying the right mix of *skills and experience*'. 'While Control Risks would never presume to know our clients' business better than they do, we do *know how* to analyze the risks they can face.' It proceeds to underline that 'dedicated client account managers have *in-depth sector knowledge*' (CR 2011j). But more than this CR stresses that it 'deploys *specialist security* coordinators to their clients' operations' (CR 2011f). The differential presentation of the company's service areas underlines its expertise. In forensics it offers '*advanced* solutions to complex problems'. 'Control Risks' Legal Technologies business delivers the *optimal* combination of software, services, and consulting to meet your unique case needs' (quotes from relevant sections of CR 2011i, emphasis added). In the process of asserting its expertise, CR draws on, and feeds into, the consolidation and establishment of private sector self-sanctioned expertise, backed up by various standards and certifications ample enough to have generated a secondary industry of companies

specialized in auditing and certifying the certification.[14] To de-securitize, in other words, involves contesting the solidly anchored, formally certified and sanctioned accumulated knowledge and experience of the commercial security industry.

This 'private expertise' is further solidified by the surreptitious invocation of the state in CR's marketing. The state is presented as approving of, encouraging, collaborating with, and relying on CR expertise. That CR is operating with state sanctioning is an omnipresent marketing theme, and is not confined to the statements on ethics and company policy cited above. 'Governments' are referred to as CR's clients, underscoring that state institutions take company expertise seriously enough to pay for it. State backed standards are invoked as informing and guiding the company training courses. The course entitled 'close protection training', for example, is accredited by the Security Industry Authority (SIA), which is part of the UK Home Office. Three of the courses marketed by the company are designed for 'service personnel' (CR 2011d). A course with the title 'Hostile Environment Close Protection Operations' requires participants to have at least seven years with the military and three operational tours in a hostile environment. CR's marketing also emphasizes that it trains those who will work directly for the state. The CONDO ['Contractors on Deployed Operations'] course, for example, is designed according to the standards of the Ministry of Defence. Finally, CR's marketing emphasizes the extent to which the state supports and promotes its status as an expert security service provider by subsidizing course participants. 'We have now achieved Approved Learner Provider Status, which enables service leavers to claim back 80% of the close protection course costs (excluding food and accommodation) from the MoD as part of their resettlement package' (CR 2011d). The state is clearly mobilized in CR's marketing to underline the legitimacy of company expertise and activities. The historically constituted authority of the state in determining legitimate knowledge (its 'monopoly on symbolic violence' (Bourdieu 1994)) is particularly strong when it comes to the use of force. This makes this mobilization particularly effective in confirming the solidity of the securitizing expertise.

De-securitization necessarily involves contesting securitizing expertise so as to re-conceptualize issues and problems as not being about security; that is, to re-politicize them. The solidification of security expertise operated in CR's marketing through its recurring references to state approval, as well as to professional standards and certificates, becomes a real hurdle for de-securitization. The more solid this expertise, the more difficult the de-securitizing moves. A second hurdle is added by CR's marketing in the form of the diffuse, technological and impersonal understanding of expertise it presents. Hence, even if CR's marketing could make it easier to de-securitize because it makes security issues more banal, these two hurdles work in the opposite direction; they entrench the securitizations based on expertise.

Conclusion

By now it should be abundantly clear why the potential for reconstituting political being at the interstices of AoC and de-securitization seems to shrink when viewed

in a neo-liberal context, where security is commercialized. However, to reiterate the argument once more: the way CR's marketing co-constitutes the two core processes (AoC and de-securitization), the effect of commercialization is to restrict the space for AoC and to make successful de-securitization less likely. Although the strictly statist framing of AoC is broken, which would seem to enlarge the scope for AoC, this is countered both by the economic and political conditioning of citizenship tied to clientelization, and by the disenfranchising exclusion of citizens who do not fully shoulder their responsibilities linked to clientelization. Similarly, although the scope for successful de-securitization processes is widened by the banalization of security, formidable hurdles are also put up through the diffusion and solidification of the security expertise that has to be countered for successful de-securitization to take place. To be clear, even at its most respectable and unspectacular, the marketing by commercial security companies does more to hamper than to help the prospect of reclaiming politics at the interstices of AoC and de-securitization.

This is not to deny that we could, and hopefully will, find enactments of citizenship re-politicizing securitized sites. There is always scope for resistance, or 'consumer production' (De Certeau 1984: xii and passim). Against the odds, subversion and diversion may displace and question overarching logics. Consequently, there is no reason to think that the commercialization of security (let alone CR's marketing) could exclude mutually reinforcing AoC and de-securitizations. But as this chapter has underscored commercialization processes, as captured through CR's marketing, make them decreasingly likely. One can follow De Certeau in his more cynical moments and argue that at any rate consumer production always takes place 'without any illusion that it [the order] will change any time soon' (1984: 26). So at the end of the day it might not matter much if commercial security/CR's marketing hampers the re-politicization of securitized spaces through de-securitizing AoC. The prospects of changing orders are moot anyway. However, stopping here (and De Certeau does not) would be profoundly disturbing. I therefore want to close by pointing out that engaging with commercial security at its most banal and innocuous, as captured through CR's marketing, is a way of pinpointing which processes have to be countered if mutually reinforcing AoC and de-securitizations are to become more likely. Flowing directly from the above, this would include the contractualization and clientelization of citizenship, as well as the diffusion and solidification of security expertise. More generally, it follows that an explicit debate about how (and if) to regulate the marketing by commercial security companies so as to limit the 'discursive harm' (Radin 1996: 174) they do – for example, by restricting AoC and entrenching securitizations – is long overdue. Although we are used to thinking that harm is much worse if someone is really hurt, the discursive harm which redefines and re-constitutes should perhaps be engaged more seriously in discussions about AoC, securitization and elsewhere.[15] Certainly if the above argument holds and the unspectacular, non-fear mongering, rather dull marketing by respectable companies, illustrated here by Control Risk, restricts the scope for AoC and entrenches securitizations, such an engagement, focused particularly on marketing, does matter.

Notes

1 I wish to acknowledge helpful comments by the participants in the original workshop (and contributors to this volume), Birgitte Sørensen, Lene Hansen and Ole Wæver, and would like to thank the editors for their comments on earlier drafts of this chapter.
2 CR has some 1,000 employees, with offices in 34 countries. It was established originally by the insurance broker, Hogg Robinson, to reduce kidnapping risks. Its ownership structure has since changed and it has diversified into a wide range of activities. CR refrains from controversial activities and has been the subject of relatively few scandals compared, for example, to Aegis, Blackwater, CACI or DynCorp.
3 To focus on acts of citizenship is to 'focus on those moments when, regardless of status and substance, subjects constitute themselves as citizens, or better still, as those to whom the right to have rights is due' (Isin 2008: 18).
4 Securitization/de-securitization are the core concepts of the Copenhagen school of security studies. For an updated discussion see Security Dialogue (2011).
5 An extensive literature and range of controversies exist on the topic. I follow the Foucauldian tradition where neo-liberalism is understood as a rationality of governance.
6 Abbott proceeds to argue that such stories are telling because 'a social science expressed in terms of typical stories would provide far better access for policy intervention than the present social science of variables' (2001: 160).
7 As any other meaning/value creation, it is one among many. There is an ongoing and unequal struggle over which meaning/values will prevail, captured for marketing by the book title 'Sign Wars' (Goldman and Papson 1996) or for academia by Bourdieu's critique of the scholarly self-delusion of possessing/imposing a superior truth (Bourdieu 2000).
8 A classic is Mauss' demonstration of the 'potlatch' elements in contemporary markets and his insistence on eradicating the radical division between the primitive and the modern economy (1981) – which is at the heart of Bourdieu's call for an 'economic anthropology' (Mauss 1950: esp. 193–222).
9 With the possible exception that, in its ethics and human rights codes, CR pledges to ensure that its activities do not reinforce violence or abuse by local 'agents' and 'institutions' (CR 2011g: ethical and independent).
10 For a discussion of the performativity of Codes of Conduct in this sector see Leander (2012).
11 'In the mid-1970s international business executives had become the target of kidnappers in parts of South America. The insurance industry sought more professional advisers to minimize their exposure and Control Risks was born' (CR 2011i).
12 These have been described as 'rhizomatic' (from plants spreading through their roots) processes (Haggerty and Ericson 2000) wherein models of analysis or 'boundary objects' (Power 2007: 27) spill over from one part of the organization to the next.
13 The Global Compact is 'the world's largest corporate citizenship and sustainability initiative' according to the website of the organization (for an overview and introduction see Ruggie (2004)).
14 For further discussion of secondary industries of certification see Power (1997). For discussion specifically in relation to private military/security markets see Leander (2012).
15 Radin's examples include prostitution, trafficking in human beings and trade in organs. In all these cases the harm done to people is generally thought to be worse than discursive harm and therefore takes up the bulk of attention and space in legal argument. Radin's point is that this is misguided as discursive harm is not only a harm in its own right but usually a precondition for other forms of harm (that is, for the woman, baby, kidney to be dealt with as a commodity in the first place, which is the origin of the other harms discussed).

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7

THE POSSIBLE AND THE LEGITIMATE

Security and the individualization of citizenship practices

Ákos Kopper[1]

Running a state requires both the capacity to rule and the justification to exercise this capacity. In modern democratic states the latter is tied to the notion of popular sovereignty, where it is on the basis of citizens regarding themselves as both authors and subjects of the law that sovereign power can call on citizens' willing obedience. As Hindess emphasizes, the power to govern requires both administrative capacities and obtaining citizens' consent for these capacities to be used on them (Hindess 1996: 138). The objective of this chapter is to scrutinize how, in recent decades, governmental technologies have become increasingly endowed with enhanced capacities to rule over citizens, while modern technologies also enable citizens to enact socialities in novel ways, thus opening up new sites to resist governmental power.

Ever since its creation the modern state has been preoccupied with gathering detailed information about its citizens; this information was to provide the basis for governing both individuals and populations. Using the information gathered, however, had intrinsic limitations. There were technological constraints limiting states' capacities to process and make use of all the information, as a result of which the subject of governance for biopolitics was, arguably, not the *individual in its individuality* but, rather, *the average citizen*. In recent decades, however, these limitations have been surmounted, with computer technology becoming an integral part of governmental technologies, making it possible to pool previously dispersed information and allowing governmental and security practices to exert a grip on citizens – including the minutiae of their lives – and to govern them in their *individuality*.

It is, however, not merely the *panoptical* aspects of surveillance – the many being watched by the few – which have been radically altered alongside the availability of new technologies. Mathiesen underlines that alongside the *panoptical*, the modern state also has its *synoptical* aspects, with the latter referring to the mediated world of modernity where the many were watching the few (Mathiesen 1997). Thus, at the

same time as revolutionizing panoptical aspects of governance, modern technology also changed how *synoptical* aspects of modern societies operate. Modern technology undermined the previously oligopolistic structure of the media, which in turn increased citizens' capacity for dissent via the novel sociality facilitated by modern technology.

This chapter proceeds in the following manner. First, I will discuss the logic of biopolitics and its limitations, limitations which meant citizens could not be governed in their individuality, but only as constitutive parts of the population. Second, I will explain how connectivity and enhanced analytical capacity enabled governance to focus in on individuals, creating their 'complete' profile by joining together the compartmentalized knowledge gathered by the various tentacles of state bureaucracy and private institutions. Third, I will turn to questions of legitimacy and discuss concerns that although this increased administrative capacity has certain benefits, it can also infringe civil liberties. The danger is not merely potential misuse, but also that as operations are automated they become more difficult to keep under critical control – making it hard to identify if (and where) things have gone wrong. Fourth, and pursuing further the question of legitimacy, I will argue that the dystopia this pervasive *panoptical* account invokes is counterbalanced by the transformation of *synoptical* aspects of modern societies. As a result of this, individual citizens, via non-centralized channels of communication, are enabled to enact an extended sociality and through this to frame counter-narratives and express their dissent. Thus, even though enhanced panoptical capacities render citizens subject to integrated digitalized security apparatuses (Bonditti 2008; also Ruppert 2011: 223), at the same time modern technologies increase citizens' capacity for dissent by reducing the 'costs' of enacting connectivity. The question to ask, therefore, is not whether we have entered the world of Orwell's *1984*, but rather what kind of new interstices have evolved between modern security apparatuses, and what are the means available for citizens to challenge the legitimacy of these apparatuses?

The limits of biopolitics

Michel Foucault, in his investigations into the genealogy of the modern state, uses the term biopolitics to describe governmental technologies that have evolved gradually since the eighteenth century. Foucault argues that a study of government should encompass all aspects of the rationality underpinning particular technologies of power. Along these lines, and in order to understand the context in which biopolitics came to the fore, we need to identify the epistemological turn, which prepared the ground for its appearance. At the centre of this epistemological turn was the modern world's increasing preoccupation with statistics, which provided the backdrop for governmental practices of biopolitics geared at, on the one hand, individual 'bodies' and, on the other hand, at the body politic as an aggregate entity (Foucault 1990: 146). There was, however, an objective limit to this mode of governing people. Although the state accumulated very detailed information about its citizens, it was simply beyond the means of the state to process all the data it

gathered. Thus, despite extensive archives of statistics and administrative information, the governing of people was not predominantly aimed at actual individuals but, rather, at individuals as constitutive parts of the population.

It is important to emphasize that the focus here is on what could be realized technically – not what could be realized as a legitimate way of governing citizens with the consent of the governed. Although technology provides limits for the capacity to govern, under democratic conditions it is ultimately for politics to decide what – from the governmental repertoire made available by technology – can be employed as legitimate means of governing citizens. While this section and the next focus on governmental capacities, the fourth and fifth sections will turn to questions of legitimacy.

The origins of biopolitics can be linked to a revolutionary transformation in how the world was understood. By the nineteenth century the world was fascinated with counting and classifying things – from the slope of hills to the resources of the land, the numbers of men and women, even the number of mothers who argued with their mother-in-law (Patriarca 1996: 30). It was the information contained within these statistics upon which the method of governing states and populations relied.

Surveillance of societies – watching citizens, but also ordering their lives – is at the centre of the practices of the modern state (Giddens 1987). David Lyon has suggested that 'modern societies had a tendency from the start to become surveillance societies' (Lyon 2003: 167). With the development of administrative surveillance, enormous amounts of data were collected that needed to be categorized and made meaningful.[2] Drawing inferences from the data required statistical methods; these methods, however, presupposed a completely new mode of perceiving the world. Thus, the statistical perspective assumed that the study of aggregate phenomena could reveal information about the world that individual cases could not. Statistical methods offered to uncover properties of aggregates by revealing averages, trends, rates – that is, properties that are possessed not by individuals (individual cases) but by populations (de Vries 2010: 80). The population was conceived as a statistical artefact (Curtis 2002) that could be addressed in its generality. With public health, birth rates, crime rates and so on, the aim was to identify correlations which might generate insights into how to govern the population and individuals.

That this was a novel mode of governing is emphasized via a comparison with earlier times. The vitalist tradition of medicine, for example, criticized this new understanding of the world, asserting that each patient was a unique case, incomparable to others (Desrosières 1991: 201). Similarly, the Greeks of Antiquity were not yet looking at the world with a statistically oriented mindset. For the Greeks, humans were the subject of their fate, not the subject of statistical rules. One was either favoured or not favoured by the Gods; the subject of their grace or the subject of their capricious anger. The implication, here, is that the notion of probability was unknown to the Ancient Greeks. For the Greeks, talking about odds – stating, for example, that the chances of someone making Zeus angry are seven to one – would have been absurd. For people living in statistically minded times,

however, these type of statements became part and parcel of their toolkit for understanding the world. For modern persons it is not fate, but probabilities, that need to be faced; the aim is to improve the likelihood of one's success by changing the odds – let us say from four to one, to two to one. These numbers are not, however, about individuals but about particular populations of people. For instance, when one quits smoking in order to decrease the chances of getting lung cancer from 35 per cent to 7 per cent, these numbers refer to the population. Statistical information derived from knowledge of the population is then projected on to individuals. The logic is the same in the case of security. Thus, for example, a decision about whether a prisoner should be released on parole might be based on information about the history of former parolees.[3]

The modern state relied on an extensive collection of information and knowledge about its citizens. This aspiration to learn about their citizens confirms the dream of all those who govern: 'Panopticon is the oldest dream of oldest sovereign: None of my subjects can escape and none of their actions are unknown to me' (Foucault 2004: 66). This scenario proved difficult to realize, however, both during classical times as well as in the modern state, as states were soon overloaded with information. Data were gathered and archived, but there was no capacity to process them meaningfully. Pierre Nora has pointed out that the files of the French social security system reached over 300 km – a reflection of modernity's preoccupation with recording and archiving such detailed information that it overburdened state capacity (Nora 1989: 14). One way to deal with this bottleneck in governing capacity was the compartmentalization of administration. Through compartmentalization, information was divided between various branches of the state, creating a range of field-specific histories of people. Thus, humans became a medical case, a case for the education apparatus, a case for the tax office, a professional with a relevant CV, a person in the network of old classmates, a credit history, or a criminal case. In each field, his/her profile was compared to the relevant normal profile of the field. It was only in exceptional circumstances that the individual was the subject of total surveillance, and information from these different fields was pooled: 'Police may keep constant watch over a small group of conspirators, or the staff of the hospital may exercise something like total surveillance over those in the intensive ward' (Rule 1973: 37). Keeping a constant eye on citizens was, however, prohibitively costly, with costs entailed not only by the collection, but also the efficient processing, of data.

The outcome of these limitations was that the governance of people was compartmentalized into distinct fields. Even within these fields, however, in-depth analysis of information was limited. A pertinent example concerns medical practice, where patients were sent to a different set of experts – whether they had a broken arm, epilepsy, appendicitis, or kidney problems – and received whichever medication had been confirmed by statistics as the most efficient for their diagnosis. Over the last ten years, however, a so-called '*target therapy*' started to evolve, where patients can be diagnosed – on the molecular level – as to whether a particular medication is suitable for them. Thus, as therapy becomes better at *targeting*,

patients are treated less as 'average patient' and more and more in their 'individuality'. *Target therapy* in the field of medicine could be called the *zoom-in-of-suspicion* in the security field. Here, a pertinent example would be an attempt to identify the 'unknown terrorist' by examining all the residue of citizens' daily life stored in administrative archives, ranging from consumer transactions or social security information, to digital traces left by citizens on the net (Amoore 2009: 18). An example of how this *zooming-in* operates is offered by the way borders are guarded. Whereas during earlier times a border guard would rely on characteristics such as nationality, race, height or actual behaviour in assessing individuals wishing to cross the border, today e-borders allow the border guard to retrieve information from a wide range of databases (Ruppert 2011). In the past, the border guard compared directly observable qualities of the individual to established stereotypes, with these stereotypes based on how the 'average citizen' was conceived. Today, however, e-borders provide a much more precise, individual narrative. Computer technology revolutionized the means through which individuals can be tracked, and their life story recorded and scrutinized. By linking the archives of various administrative compartments, and using complex data mining algorithms, in-depth, integrated, inspections can screen both individuals' pasts, and also those of their friends and social contacts (Lyon 2006: 222).

Clearly, this transformation in governmental technologies requires us to revisit the classical account of biopolitics, not merely because the capacities of panoptical power increased tremendously, but also because this increase led to a qualitatively different logic of control, shifting away from managing populations, towards policing individuals in their individuality.

Individualization of governance

Advances in computer technology altered the means available for governing people. There has been a manifold increase in what is knowable about an individual, and an increase in the capacity to 'pull together a complete picture' of the citizen (*Economist* 2010: 13). Thus, X is not just a typical doctor living in the suburbs with his/her family, but someone in the middle of a network of private and public ties. This network could be mapped, should the administration be allowed to access all relevant databases concerning how X used his/her credit card, what sites he/she visited on the net, whom he/she has as friends on his facebook account, or what his/her medical record contains – including the medical records of his/her parents with whom he/she partially shares his/her genetic code. X is not, therefore, an average citizen but rather a detailed 'individual narrative' available for the scrutiny of administration. This does not just pertain to a radical increase in the capacities of panoptical power but creates a shift in governmental logic, as security and administrative practices shift away from managing populations towards policing individual citizens.

The introduction of punch cards in the 1950s was the first step towards the automatization of data processing and the enhancement of states' administrative

capacity (Amoore 2009: 59). Later, a wide range of technological improvements followed which enabled data mining, extensive profiling, complex algorithms, network connectivity and the capacity to retrieve information from vast databases. As a result of these technological advances, governance can finally look at the individual in a holistic manner, enabling an 'individualization' of administration that was inconceivable in earlier times:

> We live today in a personal information society, in which one of the principal uses of the global networks is to exchange detailed profiles of individuals' characteristics. Personal information is the fuel on which much of modern economy runs; millions of basic decisions – about employment, insurance, lending, risk assessment, benefit entitlement, arrest, taking children into care – are made on the basis of the vast quantities of personal information which are now produced and manipulated on an industrial scale.
>
> *(Perri 6 and Jupp 2001: 41)*

While novel technologies created new, more powerful tools for analysing data, it is connectivity that radically altered the technologies of governance (Stoddart 2008: 364). Circulation of information between the compartments of administration meant that the citizen could be administered not only along distinct dimensions – as a patient, a delinquent, a tax payer, a resident of the city – but also in an integrated manner. Modern technology not only increased the possibilities for in-depth analysis of data, but also decreased the cost of exercising panoptical power, making its ubiquitous use possible. In earlier times if the police wished to find out whether someone they had stopped on the street was known to police databases, they had to find a telephone box, make a call to the police station, and ask someone to search the files available at the given police office (Gates and Magnet 2007: 281). With this classical infrastructure panoptical power was limited, and citizens could frequently 'escape' the gaze of the state. As James Rule wrote in 1973:

> Limitations like these make it easier for the individual to escape the effects of his past, for example, in cases where the agency of surveillance and control cannot bring its data to bear on a client quickly enough to act against him.
>
> *(Rule 1973: 39)*[4]

Today, however, costs are so reduced that all agencies, public and private, can instantly access all the information they have gathered on their clients. Now, a police car is not simply a vehicle from which the police jumps out to apprehend a suspect, but is a mobile office connected to a network of databases (Punch 1999).

The panoptical dystopia does not, however, conform exactly to that suggested by the novel *1984*, with Big Brother watching everything from a centre. Rather, surveillance and control takes place via a diffuse network of public and private agencies collecting data; it is through linking up all these databases that governance can focus in on individual citizens. Wilson and Weber discuss the working of

the APP (Advance Passenger Processing) system, which screens passengers before they board airplanes to Australia. First, APP passengers are the subject of profiling, which means that their personal data are compared to statistics on the numbers of applications for asylum, or breaches of visa conditions, for different nationalities and groups of passengers (Wilson and Weber 2008). At this level a rough judgement is made as to whether particular individuals are a potential threat to Australia or not. Second, APP is also linked up with the EMR (expected movement record) system, which connects to an extensive network of databases. As the result of EMR's networks it becomes possible to 'extend the scope of surveillance beyond the APP system, to incorporate assessments of risk at a more individualized level' (Wilson and Weber 2008: 131).

The outcome is a radical recasting of governmental operations. Although the general epistemological stance, which has characterized modernity since the Enlightenment, has not been altered – we are still living in 'statistically minded times', as Goethe suggested (Hacking 1990: 18) – nevertheless, the way information can be processed has been radically altered. As a result of this, the governance of citizens does not need to rely on governing the 'average citizen' but can dig deep into how a particular individual differs from other citizens. Whereas, previously, the governing of individuals relied on *focusing on similarities*, today's technology allows *focusing on differences*, on characteristics specific to the individual. Interestingly, the quantitative difference in computational capacity turns into a qualitative difference in its governmental outcome. An example might help to illustrate this difference. Whereas, previously, a person stepping into a bookstore was, according to prevailing stereotypes, assumed to be interested in cars, sports and historical novels, today the Amazon website uses information about all the books he/she has viewed and bought to offer tailor-made suggestions on yoga or post-post modern political theory. The mechanisms of profiling are just the same, identifying what group, with what characteristics, an individual belongs to. But here the group is increasingly close to having only one member. This makes all the difference.

The question of legitimacy – limits to know and let be known

Although Foucault placed most emphasis on the modern state's disciplinary aspects, and its role in 'moral accounting' (Foucault 1995: 250–53), the information the state collects on its citizens is also necessary to enhance their freedom. Economic rights and welfare provision, for example, require detailed monitoring of the lives of citizens (Giddens 1987: 309). In fact, the very same institutions of the modern state may become as much a source of liberation as a source of enslavement (Deleuze 2002: 4), where the interstices of security and citizenship can be captured as the constant struggle to make the former outweigh the latter.

With the spread of modern technologies, detailed information about citizens is stored and analysed not only by the state, but also by commercial companies, to offer custom made services which meet the requirements of particular individuals.

David Lyon has suggested calling the latter *categorical seduction*, analogously with the operations of security apparatuses, customarily called *categorical suspicion* (Lyon 2004: 142). The words of Eric Schmidt, the CEO of Google, epitomize this seduction, inviting citizens to share information with Google about their preferences, deeds, or network of friends, in order to receive better, custom made services:

> With your permission you give us more information about you, about your friends, and we can improve the quality of our searches . . . We don't need you to type at all. We know where you are. We know where you've been. We can more or less know what you're thinking about.
>
> *(quoted in Richmond 2010)*

As in the modern state, citizens are subject to some sort of dataveillance wherever they go. The question is not so much whether it is possible to create and analyse data about individual citizens, but who has the right to connect and analyse the various datasets collected by different compartments and institutions of administration.[5] There is little doubt that the information collected, which may be used to offer better services to the citizen as a client, could easily be turned against him/her. This could be the result of misuse, but also of problems in matching data; mistakes in identification (because of spelling mistakes, for example); misinterpretations (by taking data out of context); or inaccuracies. As the analysis becomes more integrated concerns mount, partly because the cost of mistakes is becoming higher (including 'costs' associated with intrusions in civil liberties) and partly because errors are increasingly difficult to identify (Clarke 1988: 506; Lyon 2007: 192). Bonditti points out that, especially in Europe, the important question is who, and under what conditions, has the right to link up different databases and access the information therein in an integrated manner (Bonditti 2004: 471). Typically, the easiest justification for comprehensive data analysis is to highlight security concerns, since invoking security tends to cause the 'law to speak with a muted voice creating a new balance between liberty and security' (Dworkin 2003: 38).

The burden of surveillance and control technologies is rarely evenly distributed in societies as the procedures they apply tend to lean towards certain categories of individual as the most likely suspects (Aas *et al.* 2009; Zedner 2007: 270–72). It is of serious concern that with administrative technologies increasingly focusing in on individuals and narrowly defined groups, the wider population does not experience potential misuses of data and infringements of civil liberties. Sunstein points out that when precautionary measures affect only small parts of the population, 'ordinary political checks on unjustified restrictions are not activated' (Sunstein 2005: 204). Most of us – perhaps naively – might believe we belong to the fortunate majority, who escape suspicion. Nevertheless – and beyond hard-core security issues, where mistakes can result in serious grievances – errors in gathering, classifying and analysing data can cause problems in every aspect of modern life.

The key issue, therefore, is not only whether proper checks and balances could be created to counter the misuse of modern technologies, but also whether there

is adequate reflection on the limits of these technologies and the possibility that, although their computational capacity has increased manyfold, they are not infallible. Notable commentators on network science, such as Albert Laszlo Barabasi, seem to suggest that the predictability of the future is only a question of increasing the amount of the data available to be processed and analysed:

> We act terribly predictable [*sic*] it's really easy to foresee your future actions if you have your past actions – if you have enough data about your past actions [. . .] if I have enough information about your past locations I can predict with a 96% accuracy your future locations [. . .] We have very hard data to show that if enough data about my past has been collected my future actions don't remain a mystery anymore.
>
> *(Barabasi 2010)*

The concern is that if such an understanding becomes widespread, then excessive trust in the algorithm could be used both to justify the use of these methods and to repudiate critics who question the infallibility of the results it produces.

Capacity for dissent – legitimacy in the synoptical world

The birth of biopolitics, with its modern governmental technologies, coincided with the development of the mass media. Governing via panoptical technologies of the few watching the many went hand in hand with the development of the *synopticon*, the viewer society, with the many watching the few (Mathiesen 1997: 219). The mass media had an ambiguous role in the legitimation of the system of governance. Thus, it projected the political spectacle – which was frequently orchestrated with the intent of manipulating citizens – while simultaneously keeping a check, on their behalf, on how control was exercised. The media was characterized by an oligopolistic structure, with information disseminated from central nodes, which in turn had direct effects on the kind of sociality to evolve among citizens. Citizens were passive listeners of the media-network and could not actively use its channels. In recent years, however, modern technology has radically altered this setup, and made every citizen into a potentially active node in the media-network. Networks of modern technology provide opportunities for novel socialities which, among other things, radically decrease the 'costs' of political participation, expressing dissent and gathering a critical mass of supporters for one's position. While sceptical voices suggest that in this new sociality citizens' activity is but an illusion, arguably it is precisely the nature of activity and passivity which is being recast, with a variety of options opening up for involvement in politics. Concomitantly, whereas inaction and lack of direct resistance were previously easily interpreted as the tacit consent of citizens – even though, in practice, they often reflected a lack of resources to organize effective resistance – citizens of today increasingly have the option to make a difference simply by withholding consent.

The same technological development which enables enhanced means of surveillance and control over people, also undermines the capacity of the state to appropriate prevailing narratives and to establish, in an authoritative manner, the spectacle which sets the stage for governing people and acquiring legitimacy. Classically, such agents of modernity as universities, big companies, the army, the media and political parties had an authoritative influence on prescribing the established 'truth' for societies. Given the centrality of their position, these institutions were able to control prevailing narratives (Foucault 1980: 132). This was a centralized 'oligopolistic' system, with a limited number of central nodes disseminating information. Even if there were competing narratives, it was frequently feasible for rulers to co-opt, or exclude, them from the spectacle. As Lukes reminds us, the power of putting certain issues on the political agenda, while excluding others, is decisive for the actual operation of any system of rule (Lukes 2005).

Technological developments brought about challenges to this oligopolistic system of monitoring and controlling the spectacle, which opened up new sites and possibilities for dissent and withholding consent. Modern telecommunications created networks with nodes, where each node could potentially become a source of information dissemination. This non-hierarchical structure undermines the oligopolistic operation of the spectacle, turning every citizen from the role of passive observer into a potential actor *with a click*. Anyone who becomes aware of an injustice or infringement of liberty can, with just a click of a button, share it with others via the internet. Although they might not be 'acting' as truly engaged citizens in classical terms, they can withhold their consent. With cameras in mobile phones citizens have the means to document and subsequently to share with others those infringements of the law which they have witnessed, and to protest simply by spreading it to fellow citizens via the internet (Haggerty and Ericson 2000: 618). Technology offers the means to act via sharing information in order to influence opinion formation; it also provides the means for organized mobilization. In the May 2011 protests in Spain, for example, pictures sent from Barcelona to Madrid showing police on the Barcelona streets caused the protests in Madrid to increase four-fold.

Some are sceptical about the promise of this novel sociality and its implications for political acts. Žižek refers to it as *interpassivity*:

> Those who praise the democratic potential of the new media generally focus on precisely these features: on how cyberspace opens up the possibility for the large majority of the people to break out of the role of passive observer following the spectacle staged by others, and to participate actively not only in the spectacle itself, but more and more in establishing the very rules of the spectacle . . . Is not the other side of this interactivity, however, interpassivity?
>
> *(Žižek 1997: 111–12)*

Indeed interactivity is partially a delusion, a delusion which has two distinct aspects that can be captured by the term interpassivity. On the one hand, interpassivity may

refer to what Ruppert has highlighted in the case of modern day censuses and population metrics. With computers providing an efficient means of collecting and arranging data, procedures are created whereby citizens do not engage in active transactions with government. In the case of filling out questionnaires on the net, for example, when the choice is made from a drop-down menu of options the citizen cannot provide any input on how the data are to be collected. Ruppert contrasts this mode of gathering data with face to face interviews and surveys, where citizens were able to engage in the process and provide personal input (Ruppert 2011). In a similar vein, while searching the internet we might entertain the illusion of being absolutely free, nevertheless we should be aware of the fact that the internet has its own gatekeepers, with the power to keep some information out of sight – analogous to the way Lukes' second dimension of power operates. For example, Hess shows in his study of search engines – such as Google or yahoo – that they have become gatekeepers, orienting where one should go on the net and what one should find (Hess 2008: 35). Both in the case of computerized censuses or search engines, interpassivity might refer to citizens being very active in filling out questionnaires or seeking information. Nevertheless, given that their choices are restricted to a realm of predefined categories, this active engagement is somewhat illusory.

As observed by Jodi Dean, interpassivity may also refer to a delusion of participation. Thus, joining a protest on Facebook may lack an active element; out of 1,000,000 supporters for a campaign it would not be uncommon for only 500 or so to show up at an actual protest. The 'click' – to sign petitions or contribute to blogs – enables citizens to believe they are politically active and to avoid any feelings of guilt over not being sufficiently politically engaged. The 'click' provides a prosthesis for active involvement (Dean 2009: 38). Whereas in the former case *interpassivity* is rooted in the systemic qualities of computerized reality, in the latter case *interpassivity* is more psychological in nature.

Arguably, however, the picture is not so bleak. The scepticism of some observers relies on a dichotomy between acts and non-acts, identifying the latter with the passive citizen who makes no difference. But isn't the person who sends a picture of police violence an engaged, active citizen? And what about the person who forwards such a picture to hundreds of his/her friends without ever stepping out of his/her room? The understanding of the engaged citizen, discussed above, seems to be rooted in an understanding of political activity which is based on participating citizens creating a physically organized sociality in order to have their voice heard. Classically, concerted action required citizens to show up for a protest in order to make a difference and the absence of such clear-cut dissent was easily interpreted as tacit consent. Frequently, the apparent legitimacy of existing systems of rule was based on the obstacles faced by citizens in voicing their dissent.

Today, however, even those who are only active by 'clicking' could make a difference. On an individual basis, these clicks might seem to be the prosthesis of political action, and yet they represent a manifold increase in citizens' networking and self-organizational capacity. This new sociality offers many citizens the opportunity to withhold their consent without taking direct action. Connectivity creates sites to

disseminate counter-narratives and normative opposition, or to establish substantial minorities who need to be reckoned with. Modern telecommunications, and especially the internet, create sites where issues can incubate. Even though these issues might be kept outside decision-making, there is always a chance they will come to the fore. The simple fact that an issue is not on the agenda no longer allows assumptions that there is tacit consent concerning it; modern technology creates new sites where dissent can flourish and counter-narratives abound.

Putting it differently, the legitimacy to govern always relies – at least partially – on the ability to control which issues may enter the political agora. Modern representative democracies centralized the political spectacle by requiring intermediaries – the media, parties and unions – to voice citizens' concerns. Thus, the agora was not generally directly experienced by citizens. Although one could discuss politics with fellow citizens, the physical limits on personal contacts placed grave constraints on the potential for niches of the political agora to flourish. Technology, however, created a modern agora which facilitated the creation of novel socialities and enabled like-minded citizens to come together. An antique agora must have been a lively place, with small groups of citizens discussing a whole range of issues. Although few of these would become issues of general public interest, nevertheless the antique agora provided a site for incubating and circulating them. Similarly, modern connectivity allows citizens to discuss their grievances and concerns, creating a *potentiality* for them to come to the fore in an instant. Arguably, it is this *potentiality* – the sudden, unexpected shift from interpassivity to actual mobilization in seconds – which makes citizens more powerful than before in expressing dissent.

Conclusion

Interstices between citizenship and security exist as interstices between the technological practice of governance and the contestation of its legitimacy. This chapter has fleshed out the radical transformation that modern computer technology caused for both of these.

In the case of the former, under the classical logic of biopolitics, governing individuals relied on information that defined the qualities of the average citizen. Given the limitations of panoptical power, the citizen was governed not in his/her individuality, but as a typical member of a sub-category of citizens. It was simply inconceivable – even for totalitarian regimes – to process information in sufficient detail to govern individuals in their individuality. Computer technology altered this governmental logic completely. By enhancing panoptical power, modern technology allowed administrations to focus on what makes a given individual distinct. Hence, the increase in panoptical power resulted in a qualitatively different governmental logic, from governing 'average individuals' to governing 'individuals in their individuality' – focusing not on *similarities* but on *difference*.

Technological development, however, also increased citizens' power to resist, to withhold their consent, and to challenge the legitimacy of rule exercised over them. Thanks to modern telecommunication, citizens can become active nodes in

disseminating information and expressing dissent in an extended sociality. Thus, capacities to rule, and to challenge the legitimacy of this rule, go hand in hand. Facebook offers a good example; its virtual space – and the virtual sociality it caters for – provides, on the one hand, a platform to organize dissent (Wills and Reeves 2009). On the other hand, the information stored within Facebook about individual users is a goldmine for panoptical power. As the *New Scientist* discovered in 2006, 'the Pentagon is funding research into the mass harvesting of the information that people post about themselves on social networks' (Marks 2006: 30).

Modern technologies thereby alter interstices of citizenship and security by recasting the operation of panoptical power (to rule) and synoptical power (to scrutinize and challenge). In both cases the status of the individual is altered. Whereas panoptical power can today focus in on individuals and investigate in minute detail their past and social relations, the flip side is that individuals have become capable of enacting an extended sociality with the 'click of a button', disseminating information or organizing dissent. Although there is, indeed, an inherent passivity in acting by sitting in front of a computer screen – as Žižek rightly suggests, it coveys an impression of *interpassivity* rather than interactivity – nevertheless the manifold increase in the self-organizational capacity of citizens does indeed increase their ability to contest illegitimate forms of rule.

Notes

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2 Surveillance is used here in a broad sense to mean activity by the state (and private institutions) in gathering and archiving information on citizens. Thus, it is not restricted to watching citizens via CCTV cameras or tapping their phones.

3 The more serious the issue the more reservations there are about making inferences on statistical information. Thus, while accepted in the case of parole decisions, using statistical inference is heavily criticized in the case of capital sentencing (Goodman 1987: 522, 530, 532).

4 Even totalitarian regimes faced these limits, as Schmeidel points out in the case of the Stasi of East-Germany: 'Had it been logistically possible, every letter would have been opened, photographed and evaluated. This outreached even the Stasi. So the specialists had to rely upon their instinct developed over twenty years in the same job . . . Although they never saw the inside of anything they scrutinized, they acquired a feel for appearance and weight of letters and cards, remembered recurring addresses, patterns and deviations from patterns' (Schmeidel 2008: 22).

5 The term 'dataveillance' was coined by Roger A. Clarke in 1988, to mean the 'systematic use of personal data systems in the investigation or monitoring of the actions or communications of one or more persons' (Clarke 1988: 499).

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8

INTERNAL CONTROL AND CLAIMS OF RIGHTS

Undocumented immigrants and local politics

Flora Burchianti

A number of scholars have evidenced the domination of securitization policies with regard to irregular migration in Europe (Huysmans 2006). These policies have resulted in the de-politicization of the management of irregular migration and the exclusion of undocumented residents from the political community. At the same time, recourse to the issue of migration in elections has clearly contributed to its politicization in national contexts. Securitization, in other words, wards off alternative ways to frame or respond to migration (Wæver 1995). Understood here as the construction of unauthorized migration as a threat to the state and democratic society, securitization is the process by which the otherness of undocumented immigrants is constructed and their political existence denied. Within a framework of security, undocumented immigrants cannot be conceived as political beings; they cannot be part of, or participate in, the political community.

Nevertheless, the political and civic participation of undocumented immigrants shows that they cannot only be seen as non-citizens, even if their lack of formal status, rights and political resources confine them in spaces of abjection (Siméant 1998; Nyers 2003; McNevin 2006). Citizenship is a continuum of situations, not limited to the possession of a status. What, therefore, becomes relevant is the way in which these agents, their discourses and interactions, are central to determining who becomes a citizen by being political (Isin 2002). It is argued that paying attention to the daily practices and tactics of undocumented immigrants and social movements members allows us to envision how the framework of security is challenged, and how citizenship is reconfigured through 'acts of citizenship' (Isin 2008). Citizenship is a process, and through acts of citizenship 'subjects constitute themselves as citizens – or, better still, as those to whom the right to have rights is due' (Isin 2008: 18). Undocumented immigrants might, therefore, be situated outside the political community, but contentious practices and daily tactics can nevertheless constitute them as political beings. This invites us also to pay attention to the context in which

the struggle for inclusion of undocumented immigrants is embodied, and to look especially at how the political definition of inclusion and exclusion through migration policies, and the way in which securitization is enacted, are providing tools for those groups claiming for migrants' inclusion.

While most theoretical works on the citizenship of undocumented migrants and non-citizens adopt a supranational perspective (Soysal 1994; Bogusz *et al.* 2004; Benhabib 2004), this chapter examines how policies, definitions and acts of citizenship are configured at the local level. The chapter asks by what means, and in what configurations, is the de-securization of non-status migrants and their constitution as political beings enacted? What are the limits to such discourses and practices? I argue that transformative migration policies, and especially the greater devolution of power to local authorities, street-level bureaucrats and private as well as associative actors, might be considered as providing new tools and reshaping strategies for those groups struggling for the political inclusion of non-status migrants.

The chapter draws upon a comparative ethnographic study of social movements' practices – and their embodiment in local configurations of power – in Catalonia and Andalusia in Spain, and the metropolitan area of Bordeaux in France, between 2003 and 2008 (Burchianti 2010). In particular, the chapter examines the discourses and practices of an advocacy coalition aiming to legalize schoolchildren's families in Bordeaux, and a network of social movements advocating free movement in Andalusia. First, I outline how the framework of exclusion designed by national and European policies gives way to diverse local configurations within which multilevel social and political interactions, as well as the involvement of private actors, such as employers and associations, contribute to local policy-making regarding migrants. These different configurations bring to the fore the possibilities for local authorities to de-securitize migration by including immigrants in the local political community. I then move on to examine the spectrum of conflicts and claims for rights pertaining to migration at the local level. I show that many of the strategies employed by social movements are shaped by categories developed by the state to manage immigrants' legal and socio-economic status. This in turn leads to different representations and rationales justifying if, and how, undocumented immigrants should be brought into citizenship. Despite this diversity, however, all the pro-migrants movements are similarly challenged by the territorial rationale underpinning the management of undocumented residents.

The devolution of power to local authorities: new possibilities for non-status migrants to be brought into citizenship?

New prerogatives for municipalities in the implementation of immigration control

Paying attention to policy implementation and practice at the local level highlights the heterogeneous and complex patterns of those public policies regulating the residential status of migrants. The shifting of migration regulation from

supranational authorities down to local authorities and out to private actors has greatly affected migration policies (Lavenex 2006). In addition, an increase in the rate of production of immigration laws causes continuous changes in the administrative categorization of immigrants, one of the features of de-politicization (Spire 2007). These factors are increasingly blurring the borders between citizenship, inclusion and legal status. Political, structural and symbolic internal bordering practices thus rely on a wide range of actors – including local officials, street-level bureaucrats, courts, employers and associations – and not solely on the national state apparatus.

In practice, these borders are enacted through migrants' everyday encounters with administrative officials, activists and employers. The trajectory of immigrants facing administrative irregularity depends not only on their social status (social capital, family status, work) or on their residence strategies (behaviour in public spaces to avoid controls, manipulation of identity, opportunities of incorporation) (Engbersen 2001). They also depend on institutional practices. Confining one's attention to undocumented migrants' residence strategies may result in a dichotomized conception of migration as either the rules institutionalized by the state, or the adaptation of migrants to these rules. Norms, rules and policies pertaining to migration are also embodied in local configurations where local actors (officials, politicians, advocacy coalitions, employers) make use of these norms, rules and policies, and compete among themselves to assign legitimate definitions of the public good. The association between the legislative framework, local practices, and the configuration of actors at the local level, influences the trajectory of undocumented migrants as 'illegals' and shapes the conditions of possibility of being granted legal status through a legalization process (Chauvin 2009). This calls into question the seemingly clear-cut legal distinction between immigrants with a legal status and those without.

Local level competences on the control and regulation of immigration have increased in France and in Spain during the 2000s. In France, these new competences are linked to the empowerment of municipalities on security related issues during the 1990s, for example in the design and implementation of local security contracts (*contrats locaux de sécurité*) as part of French urban policy (*politique de la ville*), or by the reinforcement of municipal police forces. They have emerged from the lobbying efforts of associations and networks of mayors, and their common diagnosis on the need to increase municipal power over matters of security (Bonelli 2008). On immigration specifically, new competences include the control of intermarriage, of housing and living conditions for those residents who want to welcome foreigners, and of applications for family reunion visas.

In Spain, the responsibilities of municipalities are much greater than in France, especially through the management of the municipal register (*padrón municipal*), which grants access to basic universal social coverage for all residents. Spanish immigration laws have also empowered municipalities in the process of issuing residence permits to foreigners. Municipalities are entitled to write a report on the social integration of undocumented foreigners applying for the regularization of his/her status

by recognizing the existence of 'social ties' (*arraigo social*) – having relatives in Spain and/or participating in associations – or of 'economic ties' (*arraigo laboral*) such as demonstrating the possession of a job or a job contract in Spain. While these reports have been progressively codified by the Spanish state, municipalities are not only free to add additional criteria in the report – on language acquisition, for example, or duration of residence in the municipality – but also to give a positive or negative opinion on the issuing of the residence permit, which opinion strongly influences the final administrative decision. The management of the *padrón municipal* and the redaction of reports on the social integration of undocumented migrants empowers Spanish municipalities with important competences in the control of the latter and in the configuration of citizenship.[1]

The shifting of power to local authorities in immigration matters in both France and Spain makes them partners in the global attempt to securitize unwanted migration. Yet, it remains unclear whether this empowerment of local authorities leads to a consolidation of securitization or actually opens up paths for alternative engagements on migration policy and citizenship, precisely challenging this global political framework.

Increasing or softening the exclusion? Diversification of practices at the local level

Several authors advocate redefining citizenship through residence and urban membership (Holston and Appadurai 1999; Bauböck 2003). The question as to whether the local implementation of policies intensifies the exclusion of undocumented migrants from the political community or, conversely, offers them possibilities for new forms of belonging, has been investigated in the North American context in particular. Some scholars emphasize the enforcement of the logic of control through local policies. Liette Gilbert, for example, has examined the immigration-related municipal ordinances of two cities in Canada and the United States, and affirms that:

> not only are these municipal ordinances and declarations re-bordering the inclusion/exclusion of (unauthorized) migrants by expanding the territorial and political rationality of immigration control to small towns, they are also imposing and dispersing new mechanisms of control into the everyday spaces and practices of those regarded as undesirable or ungovernable.
>
> *(Gilbert 2009: 27)*

Others, including Monica Varsanyi, emphasize instead those rebordering practices which enable the inclusion of undocumented residents through the development of local membership policies – best exemplified by the acceptance of Mexican '*matriculas consulares*' as proof of identity in the United States (Varsanyi 2007). Likewise Peter Nyers, with his examination of campaigns in favour of the creation of 'sanctuary cities' and the explicit adoption of a 'Don't ask, don't tell' policy by

major cities in the United States and Canada (Nyers 2010), prohibiting local officers from asking about the legal status of residents or communicating immigration statuses to other institutions or authorities. Practices of both exclusion, and official or unofficial inclusive practices, can thus be observed at the local level. Examining these processes in context, this study shows how the devolution of power leads to diverse configurations in which stakeholders and undocumented immigrants express competing claims, values and interests which shape individuals' irregular lives. Undocumented immigrants can, therefore, be simultaneously included in, and excluded from, the political community in ways that are never stabilized and therefore constitute a constant source of conflict.

When examining local configurations in Spain and France, both the logic of political and social exclusion on the one hand, and (limited) protection and social and political inclusion on the other, can be highlighted. In both countries, the greater autonomy of local administration, combined with the securitization of social services, has generally resulted in the day-to-day extension of the state's exclusionary framework. Everyday interactions draw boundaries and categories, separating citizens and non-citizens – those who have access, or not, to rights and provisions – thus deterring the inclusion of irregular migrants. While both countries maintain a minimal safety net for undocumented residents, including emergency health care and access to homeless shelters and public dining-halls, local practices have been central to the enactment of exclusionary frameworks. In Spain, for instance, undocumented immigrants' ability to exercise the right to be registered on the municipal census, thus giving them access to basic social and medical aid, has always been restricted, both by deliberate local policy and by initiatives from local civil servants. Municipal civil servants do not necessarily directly deny undocumented migrants their right to be registered, but indirectly complicate the process of registration by requiring migrants to present unnecessary documents, or by refusing the registration of people living in overcrowded apartments (Sindic de Greuges 2008). In addition, the police right to access migrants' personal information via the municipal register for immigration-related inquiries has deterred some undocumented immigrants from registering in the first place. In France, social services have been also associated with the control of undocumented immigration, especially when their services imply financial transactions. In the name of preventing 'benefits fraud', civil servants in the National Employment Agency are now compelled to verify the identity of jobseekers, and have even been equipped with UV readers to check their identity. Moreover, the French government also plans to formally entitle public placement civil servants to communicate the status of undocumented foreigners to other administrations, something prohibited by law until now.

Due to the success of the securitizing discourse in confusing that which is legitimate with that which is legal, street-level bureaucrats often proceed by 'illegally' excluding illegal immigrants. Doing so, they enact an implicit hierarchy among the different potential recipients of a particular public service. Michael Lipsky has pointed to the space for discretionary judgement of street-level bureaucrats, space

which allows them to take initiatives in their daily practices, most notably by interpreting the law, thus leading to the 'unequal' treatment of recipients, generally with the blessing of the bureaucracy itself (Lipsky 1980). Fuzzy legal standards regarding immigration in France and Spain, and the autonomy granted to street-level bureaucrats, play an important part in the growing flexibility between the legal framework, policies and practices.

Sometimes, however, face-to-face practices and local policy-making also lead to a softening of the same exclusionary policies. It is common among civil servants to turn a blind eye to certain situations, to avoid 'complications' for their own work. Furthermore, bureaucrats' relative autonomy and discretionary power enable some of them to either express forms of solidarity or to adopt a more 'activist' position, causing their own convictions to prevail over the general rule. In France, teachers are an emblematic case. They benefit from a high degree of autonomy within schools and have put in place collective protection systems to prevent the deportation of undocumented families. Far from being limited to the activism of some civil servants, practices of inclusion result in large part from the organizational structure of bureaucracies and whether they enable, or even facilitate, a disregard for the attitudes of street-level bureaucrats.

The most important change resulting from the enhanced autonomy of local authorities has been an increase in the possibilities for cooperation, bargaining and open conflict at the local level. Even central bureaucracies in charge of the implementation of immigration control and delivering residence permits are increasingly likely to engage in cooperative bargaining processes when examining undocumented immigrants' demands. Since 2006, the increased discretionary power of *préfets* to grant individual regularization in France has also presented an opportunity for intermediate actors to enter the decision-making process. During extraordinary legalization processes, territorial agencies of the state and advocacy coalitions maintain mutual cooperation and daily encounters in order to determine the criteria for, and the perimeters of, legalization. Local authorities remain those which are the most likely to cooperate and bargain with representatives of civil society or employers with regard to the presence of undocumented immigrants. In Spain, the strong association of public and private institutions in providing welfare has meant that non-profit organizations are often in charge of fulfilling migrants' social needs. Public/private cooperation in the design of social services for immigrants is best exemplified by the SAIER (Attention Service for Strangers and Refugees) in Barcelona, funded by the municipality but ruled by a set of organizations (including trade unions, social service organizations and legal support organizations). But if undocumented immigrants are included – even if only partially – thanks to local partnerships, they nevertheless remain subject to multiple regimes of rights and citizenship mirroring the structure of powers within the state (Varsanyi 2006).

The relative inclusion of undocumented immigrants in local policies, and their protection from deportation on proving their residence, are not only the result of daily practices of inclusion, but also rely on actual formulations of 'residence citizenship' fitting to local imaginaries.

Spaces of tolerance: do local policies reconfigure undocumented immigrants as political beings?

Political practices highlight national governments' (relative and limited) toleration of the presence of undocumented immigrants. A number of scholars have linked such governmental tolerance to the functionality of European work-markets. Undocumented migration is economically functional, especially as it enables 'outsourcing on site' (Terray 1999). Immigration laws are therefore constitutive of an 'economics of alterité' (Calavita 2005) in which law and economics mutually maintain immigrants in a marginal position. As a result of their precarious administrative and legal condition, immigrants are powerless to oppose employers within the labour market, and their subaltern position in the economy undermines their chances of being legalized. The status of undocumented migrants does not situate them completely out of society; rather, they are situated in 'twilight' or 'grey zones' (Baldwin-Edwards and Arango 1999). These zones are characterized by the omnipresence of the law in shaping immigrants' trajectories and opportunities, as well as by the persistence of areas of informality, where derogations to the law hold sway. Undocumented workers' insertion into a country's economy is not limited to the private space of the market but is also closely linked to immigration policies and legislative processes.

Rather than examining the reasons why these spaces of tolerance for undocumented residents persist, I concentrate on the question of how these spaces of tolerance are embodied in particular configurations at the local level. The chapter explores how they come to define a 'substantive citizenship' for undocumented immigrants, that is to say an 'implicit contract between residents and a government that tacitly tolerates their illegal presence, grants them temporary and limited legality, issues them work permits and collects both fees and taxes' (Bibler Coutin 2000: 159). Moreover, the policies and practices of local authorities explicitly oppose states' immigration policies, recognizing undocumented immigrants as members of the local community with rights, and offering them protection.

Political concerns over security or health issues explain why national and local policy-makers maintain a minimal safety net for undocumented residents. At the national level in France, the upholding of the State Medical Aid (AME) designed for undocumented immigrants has been justified by the need to prevent 'risks regarding the infectious diseases these persons could carry on themselves' (Othily and Buffet 2005: 182). Security is also the reason the so-called 'Othily-Buffet' parliamentary report gives for ensuring basic education to the children of undocumented families. The absence of such education, it is argued, would lead to their 'marginalization' and could 'engender undoubtedly serious problems of delinquency' (Othily and Buffet 2005: 183). To these MPs, excluding undocumented immigrants from emergency provisions and aid 'might lead to reactions of desperate violence which could threaten public safety' (Othily and Buffet 2005: 183). The same concerns justify the implementation of basic social services at the local level in French and Spanish cities. Social policies often respond to emergency situations as exemplified by periodic crises

concerning the housing of undocumented asylum seekers and immigrants in the city of Bordeaux, or the housing of temporary workers in the rural regions of Andalusia and Catalonia. In these cases, policies are not intended to make undocumented migrants political beings on the basis of their residency, but only to regulate the consequences of their lack of legal status for determined periods.

Nevertheless, such intentions can be found in both Catalonia and Andalusia, where regional authorities have pledged to recognize all residents as citizens, regardless of their legal status. The 'Catalan way of integration' defines citizenship as 'living and working in Catalonia', regardless of the residence permit issued by the state. The Catalan policy of integration emphasizes the role of the Catalan language as a medium of integration and citizenship for all immigrants. The integration plans designed between the years 2005–2012, and the public discourse of officials, take a stand for the normalization of all residents' rights, and consider that the differences between regular and irregular administrative status are only relevant at state level. For the writers of the 2005–2008 Plan,

> regardless of the administrative situation of immigration and the rights corresponding to anyone, the Plan for Citizenship and Immigration guarantees all residents to be entitled to basic human rights and equal opportunity. Thus, the fundamental criterion which makes a citizen out of an immigrant is residence, recognized by the inscription on municipal registers. [. . .] The Plan is based on the classic concept of citizenship, separated from state nationality but firmly anchored in the municipality. In other words, the Plan defines a concept of citizenship which, within the current legal framework, proposes the equality of rights and duties of all Catalans, regardless of nationality and legal status.
>
> *(Generalitat de Catalunya 2005: 6)*

This conceptual framework has been taken up in the 2009–2012 Plan, but current debates about immigration in Catalonia are likely to transform this conception of citizenship.

Despite clear differences in the national imaginaries of Catalonia and Andalusia, Andalusia has also taken a stand for residence citizenship. The same disconnection between local citizenship and legal status, as defined at the state level, has been emphasized by the Andalusian government. As one of the redactors of the First Comprehensive Plan for Immigration (2001–2004) states:

> the main objective of the Junta's (i.e. the Andalusian government) policy is to normalize the status of immigrants within the community, in equality with the Spanish population [. . .]. The aim of the Plan is to not differentiate between undocumented immigrants and legal immigrants. Of course, we cannot change the fact that documents are required to access some services financed by the Spanish State.
>
> *(Personal Interview, April 2005)*

In Catalonia, as in Andalusia, this support for normalization and residence citizenship, regardless of legal status, has led to the design of special services for undocumented migrants such as free basic health coverage, legal advice and language courses. But these policies are restricted by the local level's refusal to derogate common state law and to oppose police controls and the deportation of immigrants living in their territory.

In the region of Bordeaux, migration issues remain strongly attached to national policies and local government policies for, and statements about, residence citizenship are non-existent. Many municipalities and elected representatives have, however, taken a stand for the regularization of undocumented migrants. Their most important action thus far has been to organize symbolic acts, placing an undocumented migrant or family under the 'protection' of both an elected representative and a citizen. These ceremonies have been in existence since the 1990s, but were revitalized following the mobilization of parents and teachers against the deportation of children. Two municipalities of the metropolitan area of Bordeaux – Lormont and Cenon – are formal members of *Réseau éducation sans frontières* (Network for an education without borders), the main organization of the movement against the deportation of families. In 2010, Aquitaine regional assembly was also the first to vote for a symbolic resolution which declared the region a 'land without deportation' (*terre sans expulsion*). Ile de France and Corsica regions voted for similar motions during the same year. The adoption of such resolutions symbolically demonstrates the opposition of left-wing regional governments to national immigration policies, rather than creating real 'sanctuaries' for undocumented migrants (Nyers 2010).

Spaces of tolerance for undocumented immigrants remain important at the local level, in particular policy sectors (social aid, education). In Spain's multinational context, representations of citizenship in Catalonia and Andalusia rely strongly on residence citizenship and support the integration of all residents in local policies, whatever their legal status. In France, the politicization of migration has led several cities and regions to support the inclusion of undocumented immigrants in the local/regional political community. But all these statements of support hardly constitute an alternative to state policy on undocumented immigrants. Social movements' rights claims are, however, challenging the securitization of state policy on immigration, and thus the ways in which the boundaries of the political community are set.

Local claims over citizenship for undocumented migrants and the struggle over space

Achievements and obstacles to undocumented immigrants' political activism

The emergence into the public arena of the '*sans-papiers*' movements brought a change in the public perception of illegal immigrants. Parallel to the enforcement

of the securitization of European borders, and to the adoption of new laws making it harder to enter and reside legally in Spain or France, the '*sans-papiers*' movements sprang to the fore of media attention. These movements did not radically depart from an approach to citizenship based on the acquisition of rights and legal status, since they argue for migrants' 'right to have rights' (Arendt 1973). Nevertheless, these movements have brought about an important change in the public perception of undocumented immigrants, from being considered non-citizens and delinquents to being seen as 'citizens facing state's injustice' and activists. The very name '*sans-papiers*' allowed pro-immigrant social movements to connect with other movements, present in France since the 1990s, and unite under the term '*sans*' (have-nots) (Mouchard 2002). The connections between these movements demonstrated the success of reframing efforts aimed at changing the public perception of illegal immigrants.

In 1996, charismatic '*sans-papiers*' personalities – such as Madjiguène Cisse and Ababacar Diop – started to emerge in the French context. They became the public face of '*sans-papiers*' collectives, at a time when they struggled for recognition. Although connections existed with social organizations' advocacy networks, both in terms of ideological and material support, these collectives nonetheless disappeared into the background. The same thing occurred in Spain in 2001, when groups of immigrants occupied churches and other symbolic places, first in Barcelona and then in various other cities. Claims expressed by these collectives focused principally on legalization, not on the expansion of their rights or fighting reductions in their existing, if limited, rights. Legalization appears as the 'Sesame' to full citizenship.

In all three regions covered by my fieldwork, however, undocumented immigrants remain at least marginal, if not altogether absent, from the majority of recent pro-regularization or anti-deportation protest campaigns. Key actors in the redefinition of citizenship via activism therefore remain groups and networks of 'native' citizens or legal immigrants. How, then, do undocumented immigrants become political beings? Adapting to the enforcement of securitization policies, undocumented immigrants rely more generally on tactics (Scott 1990; de Certeau 1990) designed to evade control by manipulating one's identity, or changing the presentation of the self. Accumulating material proofs of residence, and documents from public administrations, has often proved to be the most efficient method to acquire an individual residence permit, especially after the failure and the repression of important protests in Spain and France. The main attempts to escape security technologies thus remain deployed in the private sphere and on an individual basis. Social movements' discourses have, however, adapted themselves to the state discourse on migration in order to challenge securitization policies and thus politicize the issue of undocumented migration.

Defining who is inside: the tension between 'sectional' and 'universal' claims

In both France and Spain, social movements have adopted a 'sectional' defence of particular categories of undocumented immigrants. While irregular immigrant

workers have always been at the centre of Spanish mobilizations, French mobilizations were more often led by asylum seekers. The division among social movements over the political goals of mobilizations – whether they should be aiming for a generalized regularization process or individual regularizations – has itself been of crucial importance in the mobilization process on behalf of undocumented immigrants. Of note is that while these movements critically engage the state with their claims for an unconditional right to mobility, they nonetheless use categories defined by the state, since this is seen as a pragmatic way to obtain the legalization of a migrant or group of migrants. Human rights associations, for example, have often claimed the necessity of differentiating between asylum seekers and economic immigrants in matters of legalization. Indeed, the overlap between immigration and asylum policies has caused the latter to be undermined.

In France, to give but one example, social movements prioritized the sectional defence of undocumented families with schoolchildren between 2004 and 2009. In June 2004, the coalition *Réseau éducation sans frontières* (RESF) – created as a national network by a small number of teachers, parents, human rights activists and unionists in Paris – published a founding manifesto to halt the deportation of schoolchildren and promote the legalization of undocumented families. Located in just a few schools at the beginning, the network quickly spread to all French regions. In Bordeaux, RESF was officially created in mid-2005, following the arrest of a family while picking up their ten-year-old child at a school in the city, in December 2004. This network has a strategy based on the so-called '1 + 1 + 1 + . . .' approach; it focuses on the accumulation of individual regularizations in order to radically question migration policy and trigger a general legalization process. It adopts a pragmatic discourse in its support of individual or single family legalization, putting forward undocumented immigrants' qualities as 'good citizens' including their effective integration in society, family ties, and their children's good results at school.

More generally, it appears that social movements have adapted their discourse and their claims to states' securitizing discourse about immigration. In Spain, while less structured than in France, the rhetoric of many social organizations and of the main trade unions has centred – at least before the 2008 economic crisis – on the utility of irregular migrant workers for the economy and, above all, for the welfare state and the social security system. Attempts to 're-politicize' the regulation of migrants using a discourse focusing on their economic or social 'utility' might have had implications for social movements' strategies designed to reconfigure undocumented immigrants as political beings.

Two ways of redefining citizenship in pro-immigrant social movements

Despite the growing heterogeneity of social movements related to undocumented immigration, all share the rejection of state-defined citizenship and its related social production of otherness. These movements have offered two different ways to

redefine citizenship, either by considering the local space as supporting a territorially grounded citizenship, or participating in a cosmopolitan and postnational articulation of citizenship. In both instances, the status of undocumented immigrants is re-conceptualized alongside a reassertion of the link between citizenship and territory. Both re-definitions have implications for social movements in mobilizing specific discursive repertoires and repertoires of action. I will briefly highlight these re-definitions, building on two examples of activist networks: RESF in the metropolitan area of Bordeaux, and a network of organizations in Andalusia organized around the squatted social centres of Malaga and Seville.

Although RESF has no clear general statement on citizenship, and does not propose a coherent vision of society in order to avoid alienating any of the very diverse organizations involved in its network, it is nonetheless possible to identify how its discourses and repertoire of action support the 'belonging' of undocumented immigrants in the local community. The local ties of a family are often highlighted, and expressions of proximity, inter-relations and local knowledge are at the centre of the discourses produced. RESF attempts to 'unalienate' undocumented immigrants by presenting them not only as 'ordinary' people, but even as neighbours in danger. RESF's repertoire of action relies on campaigns to raise public consciousness; these campaigns present pictures of the children and their families alongside the testimonies of neighbours, teachers and relatives attesting to their integration and positive conduct.

This discourse is conveyed through public performances, where pictures and slogans constantly refer to the proximity of undocumented immigrants. During the major 2006 campaign, demonstrators carried umbrellas to symbolize the protection offered by the community. RESF also regularly organizes neighbourhood parties in public spaces, with concerts and shared meals. Among the most important RESF performances are public events celebrating the 'sponsorship' of a schoolchild, whereby two sponsors (one elected representative and one person of the 'local community', who knows the family) commit themselves to offer protection to the family. These events are often organized in city halls, and the ceremony is highly reminiscent of official 'civil sponsorship' ceremonies in France, which aim at integrating the child into the Republic. While often referring to human rights and international norms to defend the right of immigrants to be legalized, RESF's specific discourse and repertoire of action focuses on personal ties within the local society, familiarity, and residency as the main arguments in favour of immigrants' legalization. Thus, undocumented immigrants deserve citizenship – they are not 'aliens', but familiars. As students, workers, family, friends or neighbours they belong *de facto* to the community.

A similar dimension is present in the discourse and actions of the Andalusian activists around the Malaga and Seville squatted social centres. While not belonging to a single organization or network, these more or less formal organizations have worked together, especially between 2002 and 2008, on issues pertaining to undocumented immigration and borders. The organizations include collectives of immigrants (*Coordinadora de inmigrantes de Malaga*), collectives against precariousness,

trade unions (CGT, SOC), some of the main editors of the international alternative collaborative website Indymedia Estrecho-Madiaq, which covers the territory of Andalusia and north Morocco, and collectives of hacktivists and artists. These activists, often active in more than one collective, have tried to articulate a coherent discourse about, and analysis of, undocumented migration and borders. In this respect, the location of Andalusia, at the southern limit of the European Union and only a few miles from Morocco, is crucial to understanding their work, which often involves the participation of Morocco-based associations. The Festival Fadaiat – organized during 2004–2007 – gathered activists, media-activists, academics and artists, and used new technologies to think about, exchange and create performances on the topics of borders, immigration and space in a globalized world. The Festival has provided a significant occasion to elaborate and to test a coherent discourse on undocumented immigration (Monsell and de Soto 2006).

This discourse – openly influenced by the philosophical work of Gilles Deleuze and Michel Foucault – seeks to undermine the nation-state, seen as an archaic form of monopolizing power. In this light, Andalusia and North Morocco are seen as 'circulatory territories' (Tarrius 2008) where people (undocumented immigrants, for example) as well as networks (free wireless networks, for example) convey the possibility of undermining states' control over territory while exemplifying states' rough and arbitrary power. Networks, non-hierarchic temporary associations and performances of small groups of activists, are seen as an alternative political practice and a way to overthrow state control and monopolistic power over people's conduct and lives. Citizenship is constructed in opposition to the state and to nationality. Rights to free movement, free settlement and full citizenship are put forward by activists in opposition to the territorially and nationally informed citizenship granted by the state.

Pro-immigrants activism and the struggle over space: de-securitization of places and alternative spaces of citizenship

Although contested, the link between citizenship and the national territory remains largely self-evident and powerful. The control over territory is one of the core prerogatives of the state. In matters of immigration, control over territory is a resource for the state as it seeks to control the mobility and settlement of undocumented migrants, as well as to contain social movements. Space, however, is also a crucial component of social movements' repertoires of action, even more so for 'have-nots' movements. Studies on the spatial dimension of social movements underline the existence of 'spaces of resistance' in which 'the dominant power relations are weakest and ambiguous' (Staeheli 1994: 389). These spaces of resistance allow those who lack resources, in particular grass-roots movements, to organize forms of resistance and contention. These spatial practices – such as long-term occupations of sites, reunions in 'safe spaces', but also the use of space during public protests such as demonstrations, sit-ins or temporary occupations – can be seen as part of Michel de Certeau's 'arts of doing', practices playing with the disciplinary organization of

the city and enabling individuals to elude the devices of the 'panoptic administration'. Urban arts of doing 'evade discipline without being out of its realm' (de Certeau 1990: 146). Social movements' tactics to subvert space and elude political control are key to understanding how acts of citizenship may de-securitize migration. These acts contribute to politicizing the issue of undocumented immigration by presenting alternatives to state policy and by delegitimizing the representation of undocumented immigrants as a threat. Using the struggle over space, they make undocumented immigrants become political and rightful members of the political – and local – community.

Marches and acts of collective protest are often organized in spaces with a symbolic meaning for the pro-immigrants' cause. The selection of these sites corresponds to a will to 'expose' state's control over the freedom of movement. They often proceed by changing the symbolic meaning of some sites, playing on this meaning to reveal the relation between these sites and migration policies. For instance, protests often target detention centres for undocumented immigrants, as they are key sites for the repression of non-status immigrants. For activists, closing off these sites through protest is a symbolic assault on the core of immigration policies and a way to unmask sites that are often unnoticed by the local population. It is also a way to confront the limits of state control over space. State power appears as oppressive when it restricts the freedom of movement over the urban territory, as violent and authoritarian when it exceeds its legal functions and represses protests, and as weak if it cannot control the protests (Herbert 2007).

Securitizing sites constrain activists' tactics aimed at unmasking state control over space. It is easier to protest in public spaces, even in front of a detention centre, than to occupy a detention centre or an airport in order to oppose deportations. Protests at Bordeaux airport in support of undocumented immigrants who declared they would physically oppose their deportation ('*refus d'embarquer*' in French legal terms) had only a very weak disruptive capacity (Burchianti 2010). Activists did not seek to directly confront security technologies and police forces at the airport as they were clearly dominated by them. Yet, the mere fact that someone chants slogans, or appeals to the solidarity of passengers, or occupies, even for a short while, a site marked by mobility, appears as a subversion of this securitizing site and a tactic designed to appropriate such spaces (Guillaume and Huysmans 2012). Alternative tactics are employed by immigrants inside detention centres. The technologies of control inside these disciplinary sites, and their 'deterritorialization' – positioned, as they are, outside society – constrain the possibilities for organizing protests. Immigrant activism is therefore marked by self-violence (hunger strikes, suicide attempts), provocations and destruction of these sites in an attempt to escape, especially by burning the centres. Self-violence might be considered as an act of citizenship as it is adapting to the disciplinary system to expose the lack of 'humanity' of the state and asserting, in opposition, the right to, at least, regain control over one's body.

Undocumented immigrants and pro-immigrants activists also create 'safe spaces' (Gamson 1996; Poletta 1999) or 'sequestered social sites' (Scott 1990) in which the

state definition of citizenship can be challenged and reconfigured. Occupations of churches or of other sites are at the centre of undocumented migrants' repertoire of action in both France and Spain. Creating alternative spaces can be viewed as the counterpart of the exclusion of immigrants from formal spaces. Such small spaces enable their empowerment by shaping common identities, ensuring trust, and enabling all participants, including undocumented immigrants, to become political. These spaces are also a source of support for further action, and sustain the mobilization for legalization and against detention. During important waves of protest, as in Paris in 1996 and Barcelona in 2001, occupied sites were the nodes of an extended network of organizations and mobilizations which gathered around a common cause and, conversely, used these sites as incubators for further action. These sites rely on deliberative democracy models, where decision-making through general assemblies and the refusal of hierarchy or fixed responsibilities inspires the development and application of rules. These sites combine several functions through which immigrants become political by transforming their assigned identity from 'illegals' to activists and 'victims of injustice', participating in decision-making through democratic processes[2] and enabling their recognition by state and local authorities when the movement succeeds.

Conclusion

Place and space are important structural dimensions of pro-regularization activism. Spatial tactics and the symbolic attribution of meaning to public or securitizing sites and places in order to unmask state control and restriction over freedom of movement, are relevant to understanding how social movements engage with the nexus between security and citizenship. Likewise, the creation of alternative and safe spaces in which citizenship can be reconfigured. Contending immigration policy leads activists to propose alternative definitions of citizenship. This emphasizes how the contentious practices of those who are excluded from the state's definition of citizenship are adapting to the discourses and instruments used by the state to manage migration as a security issue. The devolution of power at the local level, and to private and third-sector actors, is at the same time contributing to the de-politicization of undocumented migrants and migration policies within the aegis of security. It is also contributing to the diffusion of everyday political tools to those engaged in resisting the core of the state's securitizing framework, by challenging the latter's construction of the relationship between security and citizenship.

Notes

1 The new project of rules concerning immigrants' status, published in 2011, plans to give even more importance to these reports and to empower the regional level in this matter.

2 Even if social relations within these sites are not exempt from unequal relations of power and domination shaped by social, racial and gender hierarchies, and the division of labour among activists (see Dunezat 2009).

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PART III

Crafting political community and nationalism

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9

DIASPORAS, SECURITY, CITIZENSHIP

Francesco Ragazzi

In March 2012, a serious conflict arose between the Dutch government and its higher advisory body, the Council of State. The government proposed to change the law on citizenship, claiming that immigrants should lose their citizenship of origin if they wanted to acquire Dutch citizenship. Dutch Minister of Home Affairs, Liesbeth Spies, argued that limiting people to one nationality would clarify 'the rights and obligations between the state and the individual' (DutchNews.nl 2012b). More openly, a conservative minister had argued a few years earlier that dual citizenship represented the threat of 'loyalty to two countries' (DutchNews.nl 2010). In reply, the Council of State argued that people with more than one nationality are not necessarily less integrated. On the contrary, dual nationality had thus far been considered a way to integrate foreigners: 'nationality and loyalty are not automatically the same thing' (DutchNews.nl 2012a).

The position of the Dutch government at the time, formed by conservative parties and backed by Geert Wilders' populist Party of Freedom (PVV), is a rather marginal one in both Europe and the rest of the world. Contrary to the international agreements of the 1930s, reaffirmed until the European Convention on Nationality of 1997, dual citizenship has indeed been an increasingly accepted fact of life in international relations. Fewer than 5 per cent of countries allowed dual citizenship in 1959; this figure is now about 50 per cent (Sejersen 2008: 531). This phenomenon is just one indicator of the progressive acceptance of transnational or diasporic forms of belonging. What are the implications of this phenomenon for this volume's reflexion on citizenship and security?

Post-national or post-territorial?

The contemporary evolution of citizenship, in the light of the rise of transnationalism, has generally been understood as an advancement of post-national or

cosmopolitan ideals and values. Many hold the view that transnational citizenship has been de-securitized,[1] removed from the realm of what constitutes the crucial and vital interests of individuals, societies or states (Kymlicka 2002). Several scholars, designated as post-nationalists and cosmopolitans, have formulated a similar argument in relation to globalization.[2] Most famously, Yasemin Soysal has advanced the idea that the nation-state might be losing ground in terms of the primacy – or the imposition – of a national identity on its residents, and in particular the established migrants. Soysal (1994) argues that people increasingly relate to identities that are subnational (a Berliner, for example), supranational (European) or transnational (Euro-Turkish, Euro-Moroccan). Rights, she argues, are no longer guaranteed exclusively by the host state, but by human rights norms enshrined in treaties that came into force after the Second World War. As a consequence, citizenship is increasingly disconnected from a specific identity and from the attribution of rights; hence, the emergence of a post-national form of citizenship (see also Benhabib 2007: 19–21). Migrants and diasporas are, therefore, the key historical subject through which post-national and cosmopolitan forms of citizenship can emerge.

This stance has been criticized from several points of view. Scholars such as Hansen, who defend the primacy of the nation-state, argue that it is not losing importance as a generator of rights, that national citizenship has never been the only basis of identity, and that citizenship is the only institution which provides for the civic and political rights which permanent residents do not enjoy (Hansen 2009: 5). Many others have pointed out that the enthusiasm for more inclusive, multicultural forms of citizenship during the 1990s has been rendered obsolete by the spectre of terrorism after 9/11. The strong rise of populism and Islamophobia in Europe, and the harsh crackdown on undocumented migrants at the borders of Europe, seem to confirm this sceptical view (Cesari 2004). Does this, however, mean that nothing has changed in the past 40 years?

The main problem with the debate around post-national and cosmopolitan citizenship is that it is permeated by an implicit set of problematic assumptions about territory. The first is the conflation of the 'national' with the 'territorial'. All that is 'national' – and therefore nationalism – can, according to this view, only be territorial. Anything that goes beyond the territory must therefore be post-national. Thus, transnational practices are interpreted as necessarily undermining the logic of nationalism and its exclusionary effects – and therefore as a sign of resistance or cosmopolitanism. Second, state power is considered as exclusively territorial. Processes that stretch beyond the territoriality of the state are assumed to escape its power – and are, therefore, solely ruled by individual (ethical) or global (human rights) norms. The conflation of the nation and territory on the one hand, and state and territory on the other, paradoxically produces the false idea that any forms of belonging that cross boundaries are necessarily progressive and cosmopolitan.

My main disagreement with authors on both sides of the debate is, therefore, that modifications to the ways the state operates have been obscured; the debate relies

on an out-dated understanding of the state as territorially bound. State elites and sectors of government are not, and have never been, purely national. Transnational networks of professionals can have more importance than national hierarchies, as Didier Bigo has shown for the case of European policing (Bigo 1996), and Dezalay and Garth have shown for international lawyers and economists (Dezalay and Garth 2002). Governments frequently engage in practices of power beyond the borders that traditionally legitimate them to do so; visa and immigration policies, for example, are often implemented in the countries of departure, even before migrants are able to start their trip (Bigo and Guild 2005; Salter 2007). In sum, and as many authors have argued, in the context of globalized flows, states become transnational too.

Building on this critique, the chapter develops two arguments. In the first section, I show that the development of modern citizenship within the model of the nation-state has been marked by a strong *securitization* of transnational communities and diasporas, through the pursuit of territorially homogeneous citizenship. This period was characterized by a convergence of the objectives – the reduction of dual citizenship, overlapping identities and multiple loyalties – of both immigration and emigration states. In the second section, I claim that the current questioning of territoriality has not resulted in the *desecuritization* of migrant citizens. Instead, it has brought about a *bifurcation* of the logics of managing migration between *im*migration and *e*migration contexts, both underpinned by ethno-religious conceptions of political community. On the one hand, in immigration contexts, immigrants are decreasingly required to assimilate in order to gain access to citizenship. Compared to the previous era, citizenship has become a concern of secondary order. But they are no less surveilled. Biometrics, profiling and preventive policing moves the state's attention to ethnicity, religion and culture – broadly speaking to 'communities' – irrespective of a citizen's official documents. On the other hand, in emigration contexts, we witness the emergence of what could be defined as forms of post-territorial citizenship: policies of diaspora inclusion or 'global nations' premised on a de-territorialized, ethnic conception of citizenship, and the novel exclusion of unwanted territorialized ethnic groups.

From perpetual allegiance to territorial citizenship

Until the emergence of the first democratic states, citizenship was mostly considered as a question of state security. Grounded in natural law and encoded in English common law, the principle of perpetual allegiance underpinned a citizenship regime in which subjects had no control over their citizenship, needing to obtain the consent of the sovereign to renounce it (Legomsky 2003: 109). The sovereign–subject relationship was therefore understood as 'one of parent and child: a product of nature, hence indissoluble' (Spiro 1997: 1417). It is around this principle that most international citizenship battles were played out, until the end of the first half of the twentieth century.

With the American (1776) and the French (1789) revolutions, perpetual allegiance started to be challenged as a principle regulating citizenship. Throughout

most of the nineteenth century, the freedom to decide one's citizenship waxed and waned according to political circumstances and, more often than not, to military preoccupations. France for example, with the 1803 civil code, was one of the first states to give citizens the freedom to move abroad and acquire a foreign citizenship.[3] On the eve of the war with Austria, however, Napoleon overturned this provision and required even those who had already naturalized (acquired a new citizenship) in another state to come back. On 26 August 1811, it became illegal to acquire foreign nationality without the permission of the Emperor (Weil *et al.* 2010: 7).

In many states adhering to notions of perpetual allegiance, naturalization – the acquisition of the citizenship of another state – was perceived as a direct offence to the sovereign. A telling example of the tension between perpetual allegiance and the new individual freedoms was, in the Anglo-Saxon context, the British policy of forced enrolment (*impressement*) of US-naturalized subjects of British origins into its Navy, one of the factors that led to the war of 1812. The prince regent captured the view of the time on stating that '[The allegiance of subjects] is no optional duty, which they can decline and resume at pleasure. It is a call which they are bound to obey; it began with their birth and can only terminate with their existence' (Feldman and Baldwin 2007: 144). Similar measures existed in Turkey and China where, as of 1815, expatriation was punished with death and the banishment of the entire family (Spiro 1997: 1420). Throughout the nineteenth century, new immigration states, such as the United States, Argentina, Australia and Brazil,[4] pushed for the release from previous citizenship of their new citizens; in response, most (emigration) European states either denied, or severely restricted, the right of expatriation, at the same time facilitating re-naturalization.

In response to the increased outflow of their population, and the naturalization of their citizens in immigration countries, emigration states exploited the ambiguities of citizenship laws and relaxed, in practice, the requirement of exclusive citizenship. Pre-First World War Italy, for example, allowed article 4 of the 1865 code (ius sanguinis for children born abroad) to take precedence over article 11, which did not allow dual citizenship, creating, *de facto*, a significant number of dual nationals (Tintori 2010: 96–7). Similarly, the 1913 German citizenship law replaced previous provisions regarding citizenship loss based on residence, and allowed for the preservation or reacquisition of German citizenship regardless of naturalization (Brubaker 1992: 115). A similar trend was found in several other states across Europe and the world, the result being an exponential increase in dual citizenship. Dual nationals not only created an anomaly that did not fit the strict principles of territorial sovereignty; the increase in their numbers raised diplomatic tensions. Of particular concern was the military conscription of naturalized immigrants on returning to their homelands, which happened frequently (Legomsky 2003: 89).[5]

Throughout the nineteenth century, the citizenship laws of emigration countries thereby constituted an indirect diplomatic negotiation with immigration countries over the 'property' of population; what Koslowski defines as a 'tug of war' between receiving and sending states (Koslowski 2001: 215). This tug of war

was principally fought over a population conceived as indicating the strength of the sovereign power; it had nothing to do with the point of view of the population itself. As Spiro puts it:

> In this frame, actual sentiments of allegiance on the part of subjects were of an import equivalent to sentiments of allegiance on the part of, say, cannonballs. Expatriation represented an intolerable loss of strength to the birth sovereign, in something of a human equivalent of mercantilist paradigms.
>
> *(Spiro 1997: 1422)*

Over the years, however, the conflict was settled in favour of the new immigration states; this, in turn, generalized the freedom to choose one's citizenship. In the US, the catalyst for international negotiation was the arrest of naturalized US citizens as British subjects in relation to an uprising in Ireland in 1868. These individuals were subsequently denied a trial procedure reserved for aliens. Public outrage ensued, causing the US Congress to pass a law reaffirming expatriation as a fundamental right (Spiro 1997: 1428). In a series of bilateral treaties, known as the Bancroft Treaties, agreed between the US and European countries, emigration states eventually recognized their citizens' right to expatriation. The problem of migrant populations' allegiance – whether to emigration or immigration states – was therefore progressively solved through bilateral agreements. Dual nationality had clearly been designated as a problem to be solved, and was dealt with by an agreement to implement policies of freedom of expatriation on the emigration side, and naturalization on the immigration side.

Yet the First World War showed the limits of the system. Despite the agreements, many states claimed their nationals abroad. Within the framework of the League of Nations-sponsored International Codification Conference, the regulation of nationality – the success of which was conceived as a solution to future conflicts – became central (Koslowski 2001: 207). The 1930 Convention on Certain Questions Relating to the Conflict of Nationality Laws established that 'it is in the interest of the international community to secure that all members should recognize that every person should have a nationality and should have one nationality only' (League of Nations 1930: preamble, quoted in Koslowski 2001: 206). Meanwhile, A Protocol Relating to Military Obligations in Certain Cases of Double Nationality regulated military matters, with the principal measures ascertaining the automatic expatriation of naturalized citizens, and reinforcing the principle of freedom of renunciation of one's nationality (Legomsky 2003: 92). The Bancroft Treaties, along with the Hague convention, therefore marked a certain generalization of the principle of free choice of one's citizenship, but also established the juridical framework and the symbolic encoding in international law of the principle of exclusivity of territorial citizenship, which remained mostly untouched until the last three decades.

Up until the end of the nineteenth century the main point of contention concerning citizenship was, therefore, the freedom to choose it. This freedom was

intended to suppress medieval affiliations with the former country and allow the principle of territorialized and mutually exclusive citizenship to function. Yet, through the principle of strict mutually exclusive citizenship, it was state security that was sought after and guaranteed.

Territorialized citizens must be defended

The nineteenth century marks the progressive dominance of territorially based national homogenization – the idea that each country should be composed of one single nation, living in a clearly demarcated territory. The ways in which nationalism operated, through citizenship, to territorially homogenize populations in immigration countries have been the subject of much scholarly attention,[6] and it is not the purpose of this chapter to revisit them. Rather, I would like to highlight the processes through which immigration and emigration countries have converged in outlining common *problems* and finding mirror-like *solutions* to ensure the national and territorial homogeneity of their states' citizenry.

Let us first look at the ways in which migration has been conceptualized as posing a security problem to 'the nation' of citizens. From the end of the nineteenth century, national diversity was progressively problematized as posing a threat to two aspects of political life. First, heterogeneity within the national territory came to be considered, albeit not without complex political struggles, as a problem of allegiance and loyalty. For immigration countries, there arose a fear of the 'fifth column' – a fear that certain ethnic groups, by preserving their ethno-national identities, posed a threat to national security (Cohen 1996). This fear was mirrored on the emigration side. Thus, the loyalty of those leaving or staying abroad was considered equally suspect (Shain 1990). A second problématique, characteristic of the beginning of the twentieth century, was a fear of the corruption of the culture, the nation, or the race. Through biological metaphors, only the adequacy between nation and territory came to be considered as a 'healthy' form of political existence. As a result of the perceived security threat, therefore, both immigration and emigration states devised solutions which prioritized territorial, nationally homogeneous citizenries.

A first set of practices aimed at creating national homogeneity was based on the premise that migrants could become *nationalized* citizens. Thus, for immigration states, ethno-cultural diversity could be resolved through naturalization and assimilation. The acquisition of citizenship therefore became progressively associated with the acquisition of national features, be it for Jews in Europe (Frankel and Zipperstein 2004), European immigrants in the United States (Glazer and Moynihan 1963) or foreigners in most immigration countries of South America or Australia. In turn, emigration states used cultural policies to try to prevent the assimilation of their nationals abroad. In Germany, for example, both the 1889 'All-German School Association', and the post-First World War German Academic Exchange (DAAD, founded in 1925), were conceived as ways to gather the 'nation' across borders and prevent it from dissolving abroad. Similarly, the Dante Alighieri

institutes were set up during the 1920s to spread 'national culture' and fascism amongst the Italian emigrant population (Totaro-Genevois 2005: 30). These anti-assimilationists 'aim[ed] to prevent expatriate or same-language communities from being integrated with foreign states, and to maintain them as potential foreign policy instruments, either in relation to territorial claims or to the procurement of economic and political advantage' (Paschalidis 2008: 4).

Yet, beginning in the inter-war period, assimilation policies were questioned, and with them the idea that those not belonging to the main ethnicity could be turned into loyal citizens. It is in this context that a second set of practices appeared: removing or transferring populations. One particular practice was deportation on an ethno-national basis, from the forced removal of Slovenians and Croats from Italy in the 1930s and the 1940s, to the expulsion of Palestinians from Israel after 1948 (Walters 2002). On the emigration side, this translated into active policies of return: only within its territorial borders would the home state be able to guarantee the security of its citizens. Yet, these policies were confined to certain ethnicities or religions. In Turkey, for example, Armenians and Greek Orthodox minorities who had left the country during the War of Independence were excluded from citizenship by a law passed in 1927. In 1933, the *Statute of Travelling* further regulated the return of Anatolian Christians (Kadirbeyoğlu 2010: 2). The complementarity of these two logics is best exemplified in the practice of mutual transfer of populations, in which two states conceive it as in their best interest to both deport and import populations. One example was the 1923 Greek-Turkish population exchange of about 1.5 million individuals (Hirschon 2003: 3); another, the infamous India-Pakistan exchange of more than 12.5 million people (Khan 2007). It is also as part of this logic that Nazi Germany's Final Solution can be understood. As is now documented, the idea of the extermination of Jews was only seriously considered after all options for a 'territorial final solution' had been rejected.[7] Eichmann himself built his entire career as a specialist of forced emigration (of Poles and Jews), before becoming an exterminator. On at least two documented occasions, in 1936–37 and in 1942, he came into contact with Zionist organizations to facilitate the departures of Jewish-German citizens to Palestine. During his trial in Israel in 1961, he went as far as claiming to have been 'the new Herzl' (Cesarani 2004: 9). The collaboration between the Nazi regime and Zionist organizations reveals a most tragic and improbable coalition of interests, created by the shared desire for homogeneous, territorial citizenries. One side saw it as a precondition for preserving the purity of the race and ensuring its *lebensraum*, the other as a precondition of its physical and national survival.

The pervasiveness of the territorial logic is found in a third practice, where populations are not moved over borders, but borders over populations. At the peak of the expansion of nationalist ideas and practices, after the fall of the Ottoman and the Austrian empires, the model of the territorial federation emerges as one of the most effective blueprints for solving questions of ethnic heterogeneity in the Balkans and Central Europe (Bianchini 1996). Within these federations, the principle of territorial homogeneity remains the organizing principle, as in Yugoslavia or the Soviet

Union. The short-lived, autonomous province of Birobidzhan, which was created to 'settle' the Jewish population of the USSR, best exemplifies the impossibility of thinking about a national existence other than within territorial confines (Murphy 1989). Another practice, the territorial incorporation of parts of the national population left abroad is exemplified by the long history of more or less successful irredentist projects, from the Italian claims over Trieste, Trentino, Istria and Dalmatia, to the 1936 Anschluss, or the long list of Great Albania, Serbia, Croatia, Romania, Hungary and Greece which featured during the twentieth century, as well as the lesser known contemporary claims of Greater Nagaland and Chinland.

A final set of practices can be found in the resistance of the excluded. In the immigration contexts of the twentieth century, migrants and minorities mostly aimed at assimilation, and they fought for the recognition of their rights – with various degrees of success – in what Engin Isin has defined as 'acts of citizenship' (Isin 2002). Yet, when this goal seemed out of reach, the alternative was more often than not equally territorial: the creation of another nation-state. This was the underlying logic of the Black emigrationist movement in the early twentieth century, in Jim Crow Southern USA, which anticipated Marcus Garvey's Back to Africa slogans (Sundiata 2003: 11–48). The paradigmatic model, and inspiration, for many other similar movements, remains Zionism. The state of Israel can be seen as the most accomplished result of the practice whereby a secure citizenship is conceived as possible only through the territorialization (and therefore negation) of the diaspora. As an emigration state in which the emigration preceded the creation of the state, it has most zealously enforced the principle of territorial homogeneity as a precondition for security, at least until the 1990s. As Yfaat Weiss convincingly argues, the political context of the early years of Israel, when the Law of Return and the Law on Citizenship were designed, was particularly marked by the Zionists' memory of inter-war Eastern Europe. Among other factors, the ethnic understanding of citizenship, and more importantly 'the adoption of a new spatial-land policy' focused on territorial security and agricultural development, provided the basis for the latest project of European territorial 'nationalizing state' (Weiss 2002: 87). The territorializing project of the state of Israel can therefore be understood as one of the last contemporary attempts and (partial) successes at bringing a large population 'back to the land', for the most part in the name of security.

Securing post-territorial 'communities'

The importance of territoriality brought together immigration and emigration states in securing their citizenries in mirror-like practices of territorial homogenization. Over the past 30 to 40 years, however, this has no longer been the case. Several factors have influenced this change. First, as scholars have pointed out, the welfare state's need for territorial borders – and a fortiori the socialist economies' need for them – has always been in stark contradiction to transnational flows of goods and people. The new doctrine of free trade has removed many of these barriers, encouraging instead the free movement of financial flows, and economic development based on

the circulation of capital and labour. Similarly, neoliberal principles of management have severely reduced the scale of the welfare state. Forms of allegiance and responsibilities are therefore oriented towards the local, and circles of solidarity are increasingly located in the community, a process Nikolas Rose has defined as 'the death of the social' (Rose 1996: 333). It is in this context that we are currently witnessing a progressive *bifurcation* between immigration and emigration contexts.

Immigration contexts: the decreasing relevance of citizenship

Immigrants are decreasingly required to assimilate in order to gain access to full or partial citizenship. Citizenship is ever less a marker of exclusive ethnic identity or national allegiance. The era of disciplinary economic and political protectionism in which the territorialization and homogenization of citizenship took place is in the past (Sassen 2006). Dual nationality is not only on the rise, but the undesirability of multiple citizenships has been removed from most international agreements (Hailbronner 2003: 21).

Immigration governments have, by and large, accepted the necessary mobility of capital and labour, and acknowledged the illusion constituted by closed territories and societies. Of course, the borders of immigration countries are still violent, as exemplified by the US–Mexican border (Doty 1999) or by the external border of the European Union (Jeandesboz 2008). But the deaths at these borders represent a numerically small number of individuals relative to the number of migrants who are indeed able to travel, circulate and develop transnational affiliations (Bigo 2009). The concern of most immigration states and institutions has now moved away from stopping and checking all entrants, to filtering flows, and assessing the risk of illegal migration, terrorism, human smuggling or organized crime (Aradau *et al.* 2008; Aradau and Van Munster 2007).

In this process, citizenship is certainly an important feature, but it has become only one criterion among many in determining the potential threat posed by mobile citizens (Bigo *et al.* 2011). Biometric data, held in travel documents and connected to a growing number of databases, are indeed increasingly complexifying the modalities of control and surveillance, through the progressive constitution of 'smart borders' (Muller 2008; Salter 2004). The logic behind these forms of control has substantially altered the ways in which the relation between diasporas, security and citizenship have hitherto been articulated. More specifically, it has almost entirely abolished the suspicion of allegiance and loyalty towards a foreign state. Instead, citizenship has become mostly an indicator of geographic provenience, to be correlated with other elements such as travel record, age and sex or dietary preferences (Amoore 2006). In a sense, the belief in biometrics is giving less and less importance to alleged feelings of loyalty to a foreign state, and increasingly inscribes practices of security in the body of travellers and their data double, rather than in the paper documents they hold.

Concerning the populations that are 'already there', post-nationalists are certainly right when they point out that over the past 40 years immigration states

have substantially toned down projects of national homogenization and assimilation of ethnolinguistic minorities and diasporic groups (despite the revival of assimilationist political discourses). The neoliberal reaction to the contradictions of the welfare state has been to shift the management responsibility from the social to *communities* as 'a new plane or surface upon which micro-moral relations among persons are conceptualized and administered' (Rose 1996: 331). As such, multiculturalism has replaced the previous models of incorporation, precisely constituting communities as a new object of government for politicians, psychiatrists, health care professionals and security forces. The move to communities does not therefore provide us with more evidence of a desecuritization of movement and mobility; instead, it provides us with a re-articulation of the object of policing and surveillance. Rose reminds us that community, as a concept, emerges in part from sociological and bureaucratic sources, but that it is rapidly picked up by the police to talk about, for example, the West Indian community. Rapidly, communities became new objects to be 'investigated, mapped, classified, documented, interpreted' (Rose 1996: 331). Similarly, communities have progressively been asked to police themselves, as in programmes of community policing which have flourished in North America, Europe and Australia. While the social was essentially territorial and constituted by individuals captured by a political form of citizenship, communities define a new object of government in which the distinction between citizens and non-citizens becomes less and less important. What is at stake, instead, is the quality of opportunity and risk constituted by the communities, both for the individuals who compose them and for the states that govern them. So, while the question of the loyalty of certain citizens might still be posed, it is currently posed mostly in relation to their perceived or alleged belonging to a risk community. The category of Muslim has, for example, emerged in the UK and many European countries as a 'suspect community', irrespective of its members' citizenship, actual religious practice or political views (Pantazis and Pemberton 2009).

The emigration context: post-territorial citizenship

What has received less scholarly attention is how the loosening of the territorial grip has meant, in emigration contexts, the appearance of what I have termed forms of 'post-territorial citizenship', namely policies of 'diaspora inclusion' or 'global nations' premised on a de-territorialized, ethnic conception of citizenship, and a novel exclusion of unwanted territorialized ethnic groups (Ragazzi and Balalovska 2011). Here again, post-territorial politics do not coincide with cosmopolitan or de-securitized politics.

The passage from welfarism and developmental policies to neoliberal conceptions of government has in this case reinforced the importance of citizenship. Sending states have increasingly used citizenship or para-citizenship[8] to address the tension between economic growth strategies demanding the circulation of its population, and the fear of a brain-drain and dispersion of resources. Here, citizenship serves as the main tool through which a population residing abroad is perceived as useful for the economic or political interests of the state.

This symbolic politics began with a major relabelling of groups abroad. From 'immigrants', 'refugees', 'political exiles', or 'guest workers', they are now officially labelled as 'diasporas', 'global nations' or 'nations abroad' (Brubaker 2005). Previously pejorative terms became the object of stigma reversals, for example the valorization of the 'pochos' (the derogatory term for Mexicans abroad) by the Programme for Mexican Communities Abroad (Smith 2003: 728). Heads of state increasingly embrace populations that were previously forgotten. While Zionism was based on a negation of the diasporic existence, Ariel Sharon announced in 2002 that he understood his mandate as unifying not only Israel but 'Jews worldwide' (Shain and Bristman 2002: 77); Mexico's president, Vicente Fox, announced in 2000 that he would 'govern on behalf of 118 million Mexicans', 18 million of whom are living in the United States (Varadarajan 2010: 3). Similarly, diasporas are increasingly becoming a specific state category. This has translated into administrative modifications on the part of sending states and a multiplication of diaspora ministries and agencies; be it the Ministry of Diaspora in Serbia or in Armenia, the Institute for Mexicans Abroad in Mexico, the Irish Abroad Unit in Ireland, the Ministry of Italians Abroad in Italy, the Commission on Filipinos Overseas, the Overseas Employment Office in China, or a broad range of 'diaspora' ministries across the Middle East and Africa. In this context, sending states' citizenship laws have increasingly been amended in favour of dual citizenship: a specific legal status and identification documents are often given to expatriates, for instance Non-resident Indians (NRI) and Persons of Indian Origin (PIO) in India, or 'Matricula Consular' in Mexico. To date, similar statuses also exist in Argentina, Colombia, Salvador, Honduras, Peru, Morocco, Pakistan and Turkey.

The institutionalization of diasporic citizenship has, however, not meant an opening up, or a move towards a more cosmopolitan conception of belonging, as post-nationalists would argue. In most emigration countries, the extension of citizenship to co-ethnics outside the territorial borders of the state sits alongside exclusionary practices towards non-ethnics in the territory. The ethnicization or re-ethnicization of citizenship can be seen in the re-emergence of essentialized conceptions of belonging such as 'italianità' (Italianness), 'mexicanidad' (Mexicanness), 'Hrvatsvo' (Croatianness), and 'Hindutva' (Indianness). These conceptions allow the repackaging of heterogeneous national constructions as a homogeneous essence and, more importantly, as a feature that is independent from territory. Italianità, Hindutva or Hrvatsvo refer to a hypothetical national character shared by all members of an ethnic or religious group, no matter where they live. It therefore becomes a mobile criterion of belonging through which institutionalized state practices can be deployed. For example, the Croatian Law on Citizenship of 1991 has explicitly aimed at both including Croats everywhere in the world, and excluding as many non-Croats (that is, Serbs). Comparable developments have taken place in Serbia and Macedonia in which the explicit aim has been to exclude (for the most part) Albanians from the national population (Ragazzi and Balalovska 2011). The debate around the Status Law in Hungary, which extends citizenship to Hungarians abroad, revolves around similar patterns of inclusion and exclusion

(Waterbury 2006). Examples can be found in several other emigration countries outside Europe. Israel's recent reconsideration of its relationship with its diaspora is similarly grounded in the ideal of a non-Palestinian and non-Arab citizenry (Levy and Weiss 2002). India's diaspora policy, promoted by the BJP, has run parallel to a discourse of exclusion of Muslims from Indian citizenship (Jaffrelot and Therwath 2007). In sum, the inclusion of co-ethnics abroad has meant, in several contexts, the simultaneous exclusion of non co-ethnics in the territory. Rather than a form of inclusion, diaspora policies have therefore meant a redefinition of the borders of the nation and a renewed modality of discrimination.

Conclusion

In recent history, diasporic and transnational forms of identification, mobilization and belonging have been constituted as a question of security in a context in which the territorial homogenization of citizenship was the governmental project. As this chapter has argued, these practices were linked to specific rationalizations concerning the concentration and redistribution of wealth, as well as the provision of security, in return for loyalty. In this sense, a history of citizenship cannot be separated from the history of the different rationalities of power within which it has been deployed (Isin 2002). The contemporary era is marked by the progressive unbundling of territory, identities and political orders. Yet the consequences of this process for citizenship should not be interpreted as the emergence of cosmopolitan norms and the desecuritization of citizenship, but rather as a redistribution of the features of citizenship. On the one hand, it continues to be a tool for governments to distribute and organize practices of control, surveillance and exclusion. On the other hand, citizenship always potentially enables acts of citizenship which bear the promise of further inclusion. Aihwa Ong has argued that neoliberalism is 'a logic of governing that migrates and is selectively taken up in diverse political contexts' (Ong 2007: 3). I have suggested that this logic does not produce the same effects in countries of immigration and countries of emigration. In the former, neoliberal changes have translated into the production of, and government through, community, relegating formal citizenship to one governing device among others. In countries of emigration, however, it has underpinned forms of post-territorial citizenship which include diasporas and transnational communities abroad, to the detriment of unwanted migrants and minorities present in the territory. These are, however, two sides of the same coin, and mark a deep shift in the rationalities of citizenship, which are increasingly oriented towards the criteria of race, religion or ethnicity (Glick Schiller and Fouron 1999). However, these practices do not go unchallenged, and the contemporary evolution of citizenship is generating new modalities of resistance.

Notes

1 This chapter assumes that readers are familiar with the concepts of securitization and desecuritization. For an introduction to the concepts, see Wæver (1995); for further

discussion on the evolution of the concept, see Huysmans (1998, 2006) and C.A.S.E. Collective (2006); for discussion of desecuritization see, among others, Aradau (2004).

2 Among others, Nussbaum and Cohen (1996), Held (1995), Soysal (1994), Jacobson (1996) Bosniak (2000) Benhabib (2006), Benhabib *et al.* (2007).

3 This, in return, entailed the loss of French citizenship (Weil *et al.* 2010: 6).

4 Brazil, in particular, included in its 1891 Constitution (art. 69) automatic naturalization of all people resident on 15 November 1889, the day on which the Republic was proclaimed. Renunciation within six months was legally allowed, but strongly discouraged by the public authorities (Zincone and Basili 2010: 6).

5 Legomski documents cases in France, Spain, Prussia and other German states, noting that even today certain citizens of such countries as Turkey, Greece or Iran might face a similar situation (Legomsky 2003: 89).

6 See, among many others, Noiriel (1996), Favell (1998), Joppke and Morawaska (2003).

7 This expression, attributed to Reinhardt Heydrich, referred to plans to transfer Jews to the French colony of Madagascar, one of many failed plans of territorial deportation (Naimark 2001).

8 By para-citizenship, I refer to all sorts of symbolic documents and cards delivered to emigrants with the purpose of giving them a special status. These include the Person of Indian Origin (PIO) card, Turkey's Pink Card or Croatia's CRO Card.

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10

CURBING MARRIAGES OF CONVENIENCE?

Female labour migrants from post-socialist countries, patriarchal domination, and the 2003 biopolitical securitization of Turkish citizenship[1]

Sandrine Bertaux and Fırat Bozçalı[2]

Defying the usual characterization of Turkish politics as polarized between Islamists and Kemalist laicists – the former represented in parliament by the AKP (*Adalet ve Kalkınma Partisi* – Justice and Development Party), in government since its comfortable victory in the 2002 legislative elections, and the latter by the CHP (*Cumhuriyet Halk Partisi* – Republican People's Party) – in June 2003 a consensual parliamentary vote passed a law amending the 1964 Turkish Citizenship Act (no. 403/1964). The new law (no. 4866/2003) included some minor changes concerning the loss of, and reintegration into, Turkish citizenship. However, its major component was article 5, which codified the rules governing access to Turkish citizenship for an alien spouse married to a Turkish citizen. Notwithstanding its application to all international marriages, regardless of residence (and there are a sizeable number of citizens of Turkey residing abroad), the need to reform article 5 was presented as an immigration issue.

The new article 5 introduced a three-year delay between marriage and the eligibility of the alien spouse for Turkish citizenship, regardless of gender. Formerly, alien women who married Turkish men acquired Turkish citizenship on demand. In contrast, alien men marrying Turkish women, should they wish to become Turkish citizens, had to apply for naturalization and were subject to a different set of requirements. By eliminating legal distinctions based upon the gender of the spouse, article 5 formally introduced gender equality in the acquisition of Turkish citizenship by marriage.[3] Yet the law also introduced new requirements. To be eligible for Turkish citizenship, the alien spouse must live with his/her Turkish spouse, and the marriage must be ongoing. A police investigation might be conducted to ascertain whether the marriage is one of convenience, aimed at circumventing restrictive immigration law. Most journalists and scholars view the reform of article 5 as a response to marriages of convenience (Güngör 2004: 31;

Kirişci 2009: 28; Tokuzlu 2007: 19), stressing that it is immigrant women from post-socialist countries who engage in such practices (Erder and Kaşka 2003: 15; Kadirbeyoğlu 2009: 425). For instance, the newspaper *Zaman* (2003), known for its close relationship with the current AKP government, presented the law as making it harder for citizens of 'Eastern bloc' countries to acquire Turkish citizenship.

In this chapter, however, we argue that curbing marriages of convenience was not the primary argument in support of the new article 5, either in parliament or in wider public discussions. In parliament, the main argument in support of the new law rested on claims about alien prostitution, and a related need to defend the health of the family and the morality of the institution of marriage. After the collapse of the Soviet bloc, many women from post-socialist countries migrated to Turkey, where they were favoured by newly feminized labour regimes and the large informal economy. Once in Turkey, migrant women took up employment in such sectors as clothes manufacturing, caring, entertainment and the sex industry. However, this new labour immigration was overshadowed by a focus on alien prostitutes, nicknamed 'Natashas' in media and popular parlance.

Commercial sex is a legal and state-regulated profession confined to non-married Turkish women. Article 8 of the 1950 Passport law (no. 5682/1950) prohibits smugglers, prostitutes, and anyone who incites women to prostitution or is engaged in the 'white women trade', to enter Turkey. A regulation (no. 25471/2004) issued by the Council of Ministers in May 2004 – specifying the implementation of the law (no. 4866/2003) that reformed article 5 – explicitly addresses prostitution. Prostitutes, those engaged in the mediation of prostitution, or in trafficking into forced prostitution, are prohibited from acquiring Turkish citizenship. Against this legal background, migrant women suspected of prostitution were said to have acquired Turkish citizenship through marriages of convenience in order to avoid deportation and to continue their professional activity. In this chapter, we reject both the converging scholarly interpretation of, and public justification for, the law – that is, the view that the law aimed to protect Turkish citizenship from its 'instrumentalization' by female migrants whose primary aim is to circumvent immigration law. Both perspectives fail to grasp how the law impacts upon concepts of security and citizenship in Turkey, as well as their interplay. We suggest that the new article 5 actually reveals a novel link between security and citizenship in Turkey, a link predicated on population rather than territory – that is, a biopolitical securitization of citizenship.

Historically, security and citizenship are linked by the legal, political and racial category of Turkishness, a category which underpins a territorial claim and authoritarian nation-building on the ashes of the Ottoman Empire. Turkishness informs a politics that is often violent and murderous towards, and differently applied to, Turkey's large ethnic and religious minorities. This politics encompasses ethnic cleansing, forced assimilation, forced displacements, expulsions, emigration, loss of citizenship status, discriminatory access to public employment and specific professions, and restrictions on both languages other than Turkish as well as religious

practices other than Sunni-Hanefi (Yıldız 2001; Oran 2004; Yeğen 2009). Since the 1930s, Turkishness has been mobilized as a legal category, defining what constitutes an immigrant as a person of 'Turkish descent or race and culture', and a prospective citizen with the aim of settling down in Turkey (Kirişci 2000; Tokuzlu 2007). Whereas the category of Turkishness is used as a means of territorial control, we suggest that the new article 5 identified population as the new focus for security, constituting alien women from post-socialist countries as a security threat framed in both epidemiologic and moral terms, and to be governed as such.

As noted by Ildikó Bellér-Hann (1995: 230), to treat 'all foreign women as prostitutes engenders racism'. This echoes Foucault (2003 [1976]: 253), from whom we draw the concept of biopower, and for whom racism is 'the precondition for exercising the right to kill', the right necessary for biopower to foster life and protect the well-being of one population against other populations regarded as a threat. To kill not only means physical death, but also exposure to the risk of death that begins with the denial of the status of political subject. The denial of such status for women is at the heart of this chapter. The use of the term 'Natasha', for instance, often viewed as a negative stereotype stemming from prejudice and based on cultural difference, is actually a technology of power that turns sexuality into its site of intervention. The shift from territory to biopolitics through the question of the presence of female labour migrants in Turkey is located precisely in a sexual question that is linked not to the territorial presence of alien prostitutes in Turkey, but to the fact that the sexuality and income of labour migrant women is not always controlled by patriarchal gender norms. Sexuality is the way these women are governed in Turkey.

By ignoring the fact that alien prostitution was central to the public justification for the reform of article 5, or by presenting 'Natasha' as a mere negative stereotype unrelated to specific policies, scholars overlook the struggles by alien women for citizenship rights. Moreover, they also ignore how the reform of article 5 relates to women's claims in Turkey. Until quite recently, many patriarchal norms were legally enforced; recent legal reforms, however, have brought greater legal gender equality. Against this background, the new article 5 uses the law as a political tactic to reassert a norm of what constitutes the proper female citizen – one subjugated to patriarchal control. This new biopolitical citizenship, reflective of the political interplay at the interstices between security and citizenship, emerges at this precise moment of modernity, not out of some tradition. Therefore, the framing of alien women as a threat to the health of the Turkish population, and to the morality of the institution of marriage and family structures, aims at mobilizing Turkish women, on moral and familialist grounds, against alien women's claims for citizenship rights. Yet ultimately it also limits Turkish women's own claims to political rights, independent of men and family structures. What is secured in the new article 5 is not Turkish citizenship but, rather, male domination, which has been challenged by legal reforms and social change. Although we believe that such a biopolitical turn has transnational roots, in the present essay we focus on its domestic construction.

Foreign sex workers and beyond: disrupting and revealing Turkish patriarchal gender norms

The collapse of the Soviet bloc triggered new in-migration flows to Turkey. In stark contrast to the Schengen space, Turkey adopted a relatively liberal visa regime, facilitating its business relations with Turkic republics and the Russian Federation. This translated into a sharp increase in entries from the former Soviet Union: from 223,000 in 1990, to 1,600,000 in 1996, and close to 3,500,000 in 2005. Some engaged in unregulated small-scale trade – also known as the 'suitcase' or 'shuttle' trade – providing Turkey with foreign currency and generating substantial revenues for its export industry (Yükseker 2004). In addition, in 1989, 300,000 people belonging to the Turkish Bulgarian minority fled a forced assimilation policy, and in 2005, 1,620,939 people entered Turkey from Bulgaria (İçduygu and Kirişci 2009: 12–13).

Turkey's neo-liberal policy and large informal economy favoured labour immigrants; the new feminized labour regimes particularly attracted women from post-socialist countries who engaged in labour migration in Turkey. Whereas traders from the slavic republics were primarily women, those from the Muslim republics were predominantly male traders (Yükseker 2004). Women also came to fill the structural demand for cheap labour in the garment sector (Dedeoğlu 2011) and served as employees in the domestic and care sectors for the Turkish and foreign bourgeoisie (Akalın 2007; Eder 2007; Ünal 2011). Some engaged in entertainment and sex work, and were soon designated as 'Natashas' in the media and popular parlance (Bellér-Hann 1995; Gülçur and İlkkaracan 2002; Uygun 2004). The vast majority of these female labour migrants – like their male counterparts – have irregular status in work, and many irregular residence status as well (Kaşlı and Parla 2009; İçduygu and Kirişci 2009).

The question of alien prostitution has been used by the media to provide their readership with a sexualized representation of white blonde 'Russian' women as a kind of daily soft porn, obscuring the diversity of female labour migrants. Particularly resented in the Black Sea region after the reopening of the border with the Soviet Republic of Georgia in 1988, it disrupted a public space more accustomed to sexual segregation (Bellér-Hann 1995). Scholars have contributed to this focus by pointing to the arrival of 'Russian women' in Turkey for prostitution (Arat 2005: 86), or arguing that media attention shifted from the Black Sea to the national level after 1999 'when to fight against the infiltration of foreign prostitutes began to be recognized as an important public issue and to be treated as such by the police' (Erder and Kaşka 2003: 28). This simplifies a complicated story and obscures at least two very important components. First, the possibility that some of these women might have engaged in sex work only after entering the border. Second, the fact that even though some of these women might have become sex workers, this does not explain why female labour migrants are being cast as prostitutes regardless of their engagement with sex work. Rather than taking the claim of the 'infiltration of prostitutes' at face value, we argue that it both reveals and disrupts working

women who are uncontrolled by patriarchal norms. The organized response was to maintain and protect patriarchal domination.

Chris Hann and Ildikó Hann (1992: 4) report that alien petty traders bringing goods in the new 'Russian' markets hitherto unavailable in the Black Sea region were called '*pis*', or dirty, and argue that the reason 'lies in sex'. Foreign prostitution radically reshaped the urban landscape and public space with a proliferation of new hotels, sites of entertainment and beauty salons (Bellér-Hann 1995). Yeşim Arat (2005: 86) credits the success of alien prostitution in the Black Sea region to double standards in the local moral code and tradition. Thus, female involvement in premarital sex and adultery is severely repressed and condemned, whereas male involvement is tolerated. Husbands, she states, 'deserted' their wives to spend time and money with alien prostitutes, fuelling local political mobilizations by women. The Ladies' Commissions, set up by prime minister Recep Tayyıp Erdoğan within the Islamist Refah Party (the Welfare Party, banned in 1998), launched several campaigns against the 'Russian prostitutes' (Arat 2005: 87). They called upon the government to preserve family life from alien prostitutes (Arat 2005: 87). Refah's women members were not the only ones to mobilize against the 'Natashas', a term that a secular middle-class woman from Trabzon claimed to have coined (Bellér-Hann 1995: 226–29). Organized local mobilizations of women redefined sexual segregation along the lines of purportedly moral local women versus loose migrant women. This distinction culminated in posters such as 'Hotel-Motel-AIDS' (Arat 2005: 87), which in turn were contrasted with alcohol-free public family places designated by signs declaring 'No Russian' (Bellér-Hann 1995). Other organizations included the 'Association for the Defence of Turkish Family and Women's Rights' and the even more explicitly named 'Association for the Struggle against Natashas' (Bellér-Hann 1995: 226–29; Günçıkan 1995, cited in Gülçür and İlkkaracan 2002: 414).

The depiction of alien prostitution as disrupting local moral codes and tradition (Arat 2005) is to mistake moral codes for legal codes. The sexuality of women is the state's business in Turkey as is attested, for instance, by the long practice of virginal examinations (Parla 2001), and by the lesser (or lack of) condemnation of rapists if they marry their victim as well as the perpetrators of so-called 'honour crimes' (Koğacıoğlu 2004). In a country where heterosexual marriage remains the norm, men's sexual freedom is nevertheless ensured through state-regulated brothels. Commercial sex is a legal and state-regulated professional activity in Turkey under the 1930 General Hygiene Law (no. 1593/1930). It can only be exercised in designated places by licensed Turkish women, who must undergo regular health check-ups. State-regulated prostitution is defined as a female-only activity consumed by male clients. It is specifically reserved to Turkish women and, after the 1961 bylaw issued by the Council of Ministers (no. 5/985/1961), only to Turkish women who are not married.

In contrast, alien women are depicted as escaping the necessary regulation of prostitution. Alien women, though not the only ones engaging in unregulated prostitution and thus escaping health regulation, are particularly blamed for the

spread of STDs and AIDS. Yet, on occasion, alien prostitution has been credited with some positive effect. In 2009, Esen Özdemir, presenting a newly established Women's Platform against Sexual Violence, explained that in Trabzon 'ever since the border gates were opened (and prostitution increased), incest cases went down' (Özcan 2009). Whether represented as a means of reducing sexual abuse in Turkish families, or as a danger to these same families, alien sex workers continue to be rhetorically abused at the same time as they are excluded as victims of sexual violence by local men depicted only as consumers. The focus on alien prostitutes in public discourses and scholarly work not only conceals the heterogeneity of female labour migrants and the diversity of their relationships to local men, but also places undue emphasis on prostitution, while facilitating the portrayal of local women's anti-immigrant prostitute campaigns as a legitimation of (patriarchal) family values. Yet, while we take seriously that they present a new sexual question in Turkey, we suggest that its significance goes beyond the question of prostitution – a legal practice – instead targeting working women (including sex workers) whose sexuality and income are not controlled by patriarchal norms.

Local men were not only protected from the ire of local women – who targeted the 'alien prostitutes' instead – but were soon removed from the apprehension procedure altogether. Until the early 1990s, alien sex workers had to be caught 'red-handed' in order to be brought to court with their male clients, fined and deported (Bellér-Hann 1995: 224). In later years, however, their male clients were wholly ignored by the police and judicial procedure. This shift is significant as it has considerably expanded the category of women who can be apprehended to any alien women in the public space suspected of prostitution. It makes them vulnerable to police harassment and violence, as well as pressure from their male clients not to use prophylactics (Gülçur and İlkkaracan 2002: 417). Women who are apprehended are taken to local hospitals to undergo vaginal examination and, if the occurrence of sexual intercourse is established, face deportation (Bellér-Hann 1995: 224). Deportation on the grounds of STDs and prostitution is undertaken on the condition that there is no possibility of re-entering Turkey (Erder and Kaşka 2003: 27).

Admittedly, alien prostitution has disrupted the social setting in the Turkish Black Sea region and beyond, yet the framing of this sexual question as one of prostitution fundamentally misses that what is at issue is patriarchal rule. Banu Uygun (2004) aptly argues that the category of sex work is inadequate to capture the economic transaction underpinning those sexual and affective relationships developed between some migrant women and local men. Similarly, Deniz Yükseker (2004: 48), in her ethnography of female small-scale traders in the Istanbul district of Laleli, underscores how 'sexual intimacy may ground trusting relationships that facilitate regular, repeated exchange between male and female traders. Conversely, sexual stereotypes and codes are also manipulated for economic gain'. Some of these financial transactions between migrant women and local men may take the form of a marriage of convenience, and are not necessarily accompanied by sexual relations (Uygun 2004). However, the social issues in the Black Sea – or elsewhere – associated with the presence of alien women centre less on women paying Turkish men

to secure residence and work in Turkey, and more on married men spending time and money with alien women (Bellér-Hann 1995; Uygun 2004; Arat 2005: 87). These extra-marital relationships cannot be reduced to alien prostitution, as Arat (2005: 87) suggests. Rather, it is as working women that they are present in the public space (Yükseker 2004), a fact which generates tensions (Parla 2009) since Turkish women usually possess a subordinate position vis-à-vis Turkish men.

Alien women workers reveal the sexual, legal and economic male domination present in the family, a situation made particularly clear by the fact that it is only through their legally backed dominant position in the family economy that Turkish men find the money to spend on alien women. A 2001 reform of the civil code established equal division of the goods acquired during marriage, and set this as the default property regime for marriages contracted from that year on (Women for Women's Human Rights – New Ways 2005: 29–32). Prior to this change divorce was not an option for the overwhelming majority of Turkish women, partly because of the social stigma, but also because of the poverty it would inevitably entail. Although there are no reliable figures concerning women's share in property ownership, it remains the case that Turkish men probably own up to 90 per cent or more. More broadly, assessing the gender gap in Turkey is difficult. Women's share in the workforce is not only low (27 per cent), but has also been trending downwards over the last few decades. Most women work in the agricultural sector and many are unpaid family workers. Therefore, women are economically dependent on male family members. It is from this perspective that one should view how the new working women – whose sexuality and income are not strictly confined within, and controlled by, the conjugal patriarchal norm – fundamentally disrupt and challenge patriarchal domination in Turkey. As the political line adopted by the Ladies' Commission of the Refah party shows, alien working women stand as the counter-model to that of moral Turkish women and the policies that sustain them. This is partly because these women appear to be single, when in fact many support a family back home, and partly because paid work is the precise purpose of their coming to Turkey.

Deportation, marriage and citizenship status

The framing of alien working women as prostitutes endangering the health and morality of the family provides a moral rhetoric that diverts attention from the real issue: the legal and economic structure empowering Turkish men. This framing provided the public justification for the new article 5 of the 1964 Turkish Citizenship Act. How it came to be linked with questions of citizenship is the focus of this section.

Turkey's liberal visa regime applies only to the tourist status. Once in the country, it is difficult to change status. In addition, Turkish immigration law provides no long-term residence status and limits the number of applications for residency (Aybay 2007). According to official statistics (all based on statistics provided in İçduygu 2009: 288), in 2005 there were 132,000 foreigners with a residence

permit, of whom 22,130 had work permits (17 per cent) and 25,240 had student status (19 per cent). Given the growing number of foreigners in Turkey, these statistics alone show that settlement in Turkey is legally restricted. The tourist status provides a partial regularity, and is widely used by European Union citizens who nonetheless engage in work without a work permit (Kaiser 2003). Tourist visas are discontinuous for citizens from the former Soviet bloc (and, since 2012, for all foreigners). They give foreigners the right to stay in Turkey, as a tourist, up to 30 or 90 days out of a total of 180 days. While this discontinuous tourist status policy triggered new strategies among some labour migrants – rotational labour migration, for example, where another member of the household replaces the migrant who leaves (Ünal 2011: 21) – it has left others with the dilemma of securing their job and running the risk of deportation, or leaving the country and losing their job.

Deportation practices are difficult to evaluate. According to the Turkish National Police website (Turkish National Police 2011), 829,161 migrants in irregular situations were apprehended between 1995 and the beginning of 2010. Apprehensions rose steadily from 11,362 in 1995, to a peak in the years 2000–2002 – 94,514 in 2000, 92,305 in 2001, and 83,825 in 2002 – only to decline to a figure between 55,000 and 65,000 per year from then on. Statistics on immigration and citizenship are not readily accessible, but some scholars have been provided partial statistics by official sources. According to the annual figures on apprehensions broken down by citizenship, provided by Ahmet İçduygu (2009: 294), migrants from post-socialist countries became targets of apprehensions only in the late 1990s. However, these do not match the partial data provided by Sema Erder and Selmin Kaşka (2003: 17–22, 27), in their report on trafficking for the International Organization for Migration (IOM). According to those figures, between 1996 and 2001 migrants from Azerbaijan, Georgia, Moldova, Romania, the Russian Federation and Bulgaria represented around 22 per cent of apprehensions, close to 50 per cent of deportations, 88 per cent of deportations for STDs, and 95 per cent of those resulting from prostitution. Although statistics are not gendered, it can safely be assumed that the two latter figures refer to women alone since prostitution is framed as a female activity, 'verified' through vaginal examination.

These figures demystify the 'Natasha' myth (Erder and Kaşka 2003: 18). The large share of women from predominantly Muslim Turkic republics belied the media construction of the Slavic Christian, blonde, white, prostitute. But if their statistical over-representation is presented as further evidence pointing to the engagement of these women in sex work, they are also likely to measure, at least in part, the increased activity of the police. Therefore, rather than taking them as indicators of the presence of alien prostitutes, they cannot be separated from the actual politics of immigration. In fact, they highlight how prostitution and STDs are instruments of deportation and subsequent banishment from the Turkish territory; they highlight the biopolitical dimension of security.

Without knowing the actual annual distribution of deportations by origin, gender and socio-economic category, it is impossible to ascertain whether the rise in apprehensions at the turn of the century also reflected a rise in deportations, nor

is it possible to evaluate the share of women deported for STDs and prostitution. Furthermore, until 2010, detention centres, or 'guesthouses for foreigners' – placed under the authority of the Interior Ministry and administered by the police – had no clear legal basis. While Turkish authorities claim that being placed in these centres does not amount to being detained, it nonetheless exposes Turkey to possible violation of both international human rights and refugee law (Global Detention Project 2010). In spite of a lack of evidence, the increase in international marriages alongside that of apprehensions indirectly provides what seems to be the best working hypothesis: as female labour migrants were more and more exposed to deportation, they developed strategies to secure their stay – marriage was one of a multiplicity of such strategies, chosen according to each individual's professional activity, religion and ethnicity. As Erder and Kaşka (2003: 15) rightly emphasize, the rise in international marriages at the turn of the twenty-first century resonates with this hypothesis. However, they also underscore the rise of marriages of convenience, while admitting the impossibility of evaluating their overall proportion. They argue that since the marriage procedure gave easy access to Turkish citizenship for female aliens, it facilitated those marriages aiming at circumventing immigration law. Between 1990 and 2008, 46,136 aliens acquired Turkish citizenship through marriage. As with statistics on immigration, those on acquisition of citizenship are not gendered; however, 36,008 of these acquisitions took place between 1990 and 2003 when the procedure was reserved to female alien spouses, and 80 per cent of them in the years 2000–2003 (calculated from Kadirbeyoğlu 2009: 429).[4] Between 1995 and 2001, 14,870 foreign women from Azerbaijan (3,876), Georgia (979), Moldova (1,292), Romania (2,894), the Russian Federation (2,193) and Bulgaria (3,636) acquired Turkish citizenship through marriage, representing more than 60 per cent of the total (Erder and Kaşka 2003: 15).

Because these figures do not indicate if the international couple resides in Turkey, no definite conclusion can be drawn as to whether the rise in international marriage is directly related to the question of status in Turkey. What can be said, however, is that it was not the volume of acquisitions of Turkish citizenship through marriage that prompted the reform of article 5. These numbers are relatively low if we consider the volume of in-flows from post-socialist countries and the size of the Turkish population. Rather, it was the growth in such marriages that was the cause for concern. If the growth of international marriages can partly be credited to marriages of convenience, then it is a reflection of Turkey's politics of immigration. Acquiring Turkish citizenship does not necessarily constitute the first option for migrants. When Turkish authorities bear the cost of deportation, female labour migrants use it as a way to avoid paying the fine of overstaying their visa at the border (Dedeoğlu 2011; Ünal 2011). Acquiring student status is another strategy allowing individuals to experience at least a partial regularity of residence and, ultimately, to apply for citizenship status. As long as labour migrants are needed in Turkey's informal economy as a cheap workforce, lacking rights and denied legal status, it is unlikely that the new article 5 will bring a stop to these tactics.

While prostitution and STDs are used to control the presence of undocumented migrant women in the public space, and to ban them from Turkish territory, marriages of convenience cannot be reduced to alien prostitution. Such a link was nevertheless articulated in a Summer 2001 issue of the daily newspaper *Hürriyet*, entitled 'Three thousands Natashas are citizens of the Turkish Republic' (Aksoyer 2001). The article reported that after the police's morals desk (*ahlak masası*) raided some places of entertainment in Istanbul, it was found that 145 out of 187 women from the former Soviet Union and Romania, in custody under suspicion of sex work, were Turkish citizens. They had paid Turkish men USD1,000 to get married, with the aim of acquiring Turkish citizenship in order to avoid deportation. The article stressed that 'three thousand foreign national (*yabancı uyruklu*) prostitutes currently hold Turkish pink [the colour reserved for females] identity cards' and even if they are bearers of STDs, they cannot be deported. By presenting these new citizens as foreign nationals, the article's wording implied that their Turkish citizenship is merely formal, if not paradoxical. Also, by emphasizing that if they did have an STD whilst holding the status of a foreigner, they would have been deported, making it clear that health care would not be provided to them. It is this articulation that provided the public argument for the reform of article 5, causing a local social issue to become a national concern.

The law of morality: the alien whore and the institution of marriage

The politics of curbing marriages of convenience have been at the centre of many reforms of citizenship laws, in European countries and elsewhere, since the 1980s. This has raised the complicated question of the standard by which a marriage can be evaluated as either 'fake' or 'genuine'. The birth of a child and common place of residence are only presumptions that the marriage is genuine, not evidence to annul police investigations. Therefore, it is the idiom of the intimate that is eventually mobilized in order to evaluate the authenticity of an international marriage. Lacking legal foundation, it is open to cultural claims. However, such mobilization of the intimate is more difficult in Turkey where marriages continue to be subject to the approval of the family, including the financial transaction that seals the marriage. Continuing the political line adopted in the Black Sea by the Refah Ladies' Commissions, alien prostitution was subsequently ranked as a national issue by the AKP, and turned into the major argument for the parliamentary reform of article 5.

The AKP deputy, who presented the reform of article 5 of the 1964 Citizenship Act, offered two sets of arguments. The first claimed that reform would bring Turkish law closer to the West, with the introduction of gender equality bringing citizenship law in line with the European Convention on Citizenship, and fulfilling the necessary requirements in the process of becoming members of the European Union. At the same time, tightening access to Turkish citizenship for the alien spouse would align Turkey with a broader trend in the West. Legal scholar Rona

Aybay (2008) criticizes the gender equality argument for being realized at the lowest possible level, making it harder for alien women to acquire Turkish citizenship. As stated in the introduction, many scholars have focused on the intention to curb marriages of convenience rather than that of promoting gender equality, while largely overlooking the second set of arguments.

The second set of arguments gave the reform its domestic public justification. Thus, the reform would protect the respectability of marriage since 'in certain regions of our country' foreigners have 'illegal (*yasadışı*) relationships', damaging 'the morality and health of the society and the family structure'. In order to continue such illegal practices, alien women contract marriages of convenience (*muvazaalı evlilik*) and, once they become Turkish citizens, divorce. The reform would therefore 'save the institution of marriage from degenerating (*yozlaşmak*)'. Another AKP deputy, who concluded the parliamentary discussion, lauded the re-establishment of the 'seriousness of the institution of marriage', pointing to the presence of persons from 'northern countries' engaged in illegal practices. Although the term prostitution was never mentioned, the illegal practices at issue are veiled terms for prostitution.

One deputy from the CHP opposition party criticized the reform, arguing that the domestic politics of Turkey should not be dictated by Europe. He pointed to the lack of utility of a delay between the date of marriage and eligibility for Turkish citizenship with regard to international terrorism. 'Whether one year or three years it does not matter, a Turkish citizen could go to Iran and marry with a member of Al-Qaida', which would 'benefit that country [Iran] which has already been ambitiously talking about exporting the Islamic revolution to other countries'. Opposing European imperialism, and alluding to AKP's own politics which he suspected formed part of a transnational Islamic revolution, the intervention of the CHP deputy was nevertheless largely rhetorical since the law was passed with a consensual vote (Turkish Grand National Assembly).

The new article 5 introduced a three-year delay between marriage and the eligibility of the alien spouse for Turkish citizenship, regardless of his/her gender. By silencing the gender of the spouse, the new article 5 introduced gender equality but at the same time tightened access to Turkish citizenship for the alien spouse. To be eligible for Turkish citizenship, the alien spouse must live with his/her Turkish spouse and the marriage must be continuing. Because the new article 5 requires the international couple to live together, it subjects the alien spouse to immigration law and, more specifically, to the acquisition of a residence permit. While the status of alien spouse grants the right to a residence permit, costly for many alien citizens until 2012, a police investigation to ascertain if the marriage is genuine or one of convenience starts from the moment he or she applies for a residence permit on the basis of marriage, and not at the moment of application for Turkish citizenship. Therefore, even the curbing of marriage of convenience thesis misses the fact that what the reform does is to expand immigration law into citizenship law. Furthermore, the use of prostitution in the public justification for the reform is not rhetorical. The Regulation issued by the Council of Ministers in May 2004 further specified that (female) prostitutes, those who mediate prostitution, force someone

into prostitution or engage in the trafficking of women, cannot acquire Turkish citizenship. It repeats article 8 of the 1950 Passport law, mentioned above, with the slight difference that the 'white women trade' becomes trafficking in women.

Although there is much repetition, the Regulation does, however, reformulate the prohibition surrounding prostitution from a question of borders and territory, to one of population. The parliamentary discussion, the law and the regulation, all point to a new concept of security based on population rather than territory. In the parliamentary discussion, two different concepts of security, each gender-specific, were mobilized. The CHP deputy stressed a concept of security based on territory in which the threat is a global terrorist Islamist threat. He took the opportunity to question whether the AKP was acting as a Trojan horse for the establishment of an Islamist government in Turkey, one year after its electoral victory. In contrast, the two AKP deputies emphasized a concept of security based on population, in which the threat is sexual and female. The consensual vote on the law indicates that this latter concept of security has gained in legitimacy, notwithstanding the resilience of the territorial security concern.

Conclusion

The explicit goal of the new article 5 of Turkish citizenship law is to protect Turkish citizenship from its instrumentalization by female migrants engaging in marriages of convenience in order to circumvent restrictive immigration laws. Yet, the public justification for the reform – the need to protect the health of the family and the morality of the institution of marriage from alien prostitutes – reveals more about what is actually occurring: the instrumentalization of immigrant women by the Turkish authorities. By focusing exclusively on the goal of the law, scholars disregard female migrants' strategies as citizenship struggles in their own right. Moreover, by ignoring the public justification, they remain blind to alternative claims on the meaning of citizenship by a section of Turkish women. In particular, they miss the interplay between citizenship and security apparent in the reactions to the challenge brought to patriarchal norms by alien working women; reactions that are channelled into a discourse of biopolitical threats through a racialized mobilization based precisely on the reassertion of those norms.

The biopolitical securitization of Turkish citizenship places sexuality at its core – as a technology of power to govern both alien and national women. In doing so it not only incorporates the former within a form of patriarchal control they would otherwise escape, it also re-routes the claims of the latter against their male family members to a (re)assertion of their position as subaltern citizens, as subordinated spouses and mothers. In both cases, women are denied the status of political subjects in their own right. Ultimately, such technology of power could be applied to Turkish women if their claims exceed their ascribed status as family members; if they express sexual freedom and economic independence. If this process can be situated within the longer history of what Nükhet Sirman (2005) has termed 'family citizenship' for the republican era, it is in fact altering and reformulating both

concepts of citizenship and security in new ways: shifting the logics establishing political subjects from the territorial to the biopolitical. Alien working women will not, therefore, disappear from either Turkey or the dominant patriarchal political discourse any time soon. They are not only useful in maintaining Turkey's global economic position, they have also acquired the crucial status of counter-model to the 'proper' female Turkish citizen. More simply, though, they are a key instrument constraining progress towards gender equality in Turkey.

Notes

1 We dedicate this chapter to the memory of Dicle Koğacıoğlu (1972–2009).
2 Much of the research for this chapter was conducted within the research programme 'Culturalization of Citizenship: The Netherlands in Comparative Perspective' hosted at the School of Social Science Research, University of Amsterdam; from this programme, Sandrine Bertaux would like to thank Peter Geschiere, director of the subgroup 'A View from the South'. We thank Ayşe Parla for drawing our attention to the article by Ildikó Bellér-Hann, Rutvica Andrijasevic for pointing out the importance of whiteness in the framing of prostitution, and Hazal Hürman for her work as the research assistant on this project. We are grateful to Inayet Aksu for discussing with us various legal issues that were initially quite hard to grasp. We also thank the directors and participants of the 2008 ECPR Lisbon Workshop for their constructive comments and suggestions on an early draft.
3 Turkey does not recognize same-sex marriage.
4 Note that the years 1997–1999 are missing.

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11

RECRAFTING POLITICAL COMMUNITY

Angharad Closs Stephens

This chapter attends to the interstices between citizenship and security in order to explore how ideas of political community are crafted and contested. As Guillaume and Huysmans explain in their chapter in this book, security practices are routinely presented to us as attempts to protect existing citizens and to keep 'outsiders' at bay. Security practices therefore intersect with citizenship practices in that they actively participate in determining who belongs to a particular community and who does not. In this sense, we often find that migrants, refugees and asylum seekers are cast as figures that pose a threat to an otherwise 'native' community (Hyndman 2000; Rajaram 2007; Squire 2009). But determinations as to who does and who does not belong in a particular political community do not straightforwardly map on to those who have uncertain status in a polity. In the highly charged political context that followed the attacks on New York and Washington City on 11 September 2001, and the crashed plane in Pennsylvania, individual citizens and long-established minority communities were also routinely challenged. These challenges could be either formal, such as at airport security stops, or informal, such as those from fellow citizens, commuters and neighbours, who voiced concerns over those regarded as potentially 'suspicious' and asked them to explain their commitment to the political community (Butler 2004a; Grewal 2005; Puar 2007).

This chapter explores how ideas of political community were crafted and contested under the climate of heightened insecurity that followed the events of 11 September 2001. It begins by unpacking the dominant understanding of community that accompanies security practices – that is, the idea of a national community that is united and can be contrasted to the threat of terror from 'outside'. In doing so, it pays particular attention to how motions of community are constructed through particular ideas of time. The chapter then moves on to discuss two political interventions which suggest that the security and citizenship practices that followed the events of 11 September 2001 also provided openings for counter-practices and for the formation

of alternative ideas of political community. The first example is a series of short films developed, directed and produced by Cynthia Weber (2007), called *'I am an American': video portraits of unsafe US citizens*, which unpacks different citizens' experiences of security and belonging in relation to the American nation. The second example is feminist theorist Judith Butler's (2006) attempt to contest nationalistic discourse in the collection of essays she published in response to the events of 11 September 2011. Both interventions engage with the central theme of this chapter, which is to explore how moments of heightened insecurity might also form opportunities for contesting nationalism and for imagining community on other terms. Building on this investigation, I contend that forming and crafting alternatives to nationalism remains a difficult task. This is because the language, grammar and logic of nationalism continue to be dominant in steering our understandings of political community. Critical interventions therefore often have difficulty in postulating alternatives that elude this national frame. This is not a reason to give up thinking about counter-practices, as there are important reasons why we should resist a nationalist understanding of community, as the chapter makes clear. The point, rather, is that we need to consider how critical strategies of resistance occasionally fall back upon languages, images, and models of politics that are already present, available and predictable. In drawing upon distinctly nationalistic framings, the risk is that we reproduce much of what we might have initially set out to struggle against. The chapter suggests that critical interventions need to be inventive, audacious, playful and experimental when negotiating the interstices between citizenship and security.

The dominant framing of community

Ideas of political community are crafted and mobilized, contested and resisted at the interstices between practices of citizenship and security. This can be gleaned from the responses of political leaders in the UK and United States to the tragic loss of life in New York, Washington and Pennsylvania on 11 September 2001. By portraying the events of that day as attacks on the *national* community of the United States, as well as an *international* community of liberal democratic governments, the image of a united community placed under attack was talked, written and materialized into existence. This understanding of community is formed around the image of a constitutive organic core, which enables the notion of an 'us' that can be distinguished clearly and straightforwardly from 'them'. It is an idea of what I describe as a 'community in unity' and it is what underpins and mobilizes nationalist rhetoric (Closs Stephens 2007; see also Corlett 1989). It succeeds in casting a multiplicity of subjects as part of the same imagined community and, in congealing around a particular identity, it necessarily entails that 'others' are cast as 'different' (Connolly 1991). While the process of securing a community of citizens can be presented as what governments are tasked to do, this is inevitably a forceful process, one that requires policing and determining who counts and who does not (Rajaram 2007), who is allowed in and who must be kept out, and whose membership in the polity deserves to be questioned, challenged or placed under surveillance.

The idea of a 'community in unity' is therefore talked, written and materialized into existence through the idea that 'we' share something that 'others' do not, and that at the same time, we are at risk of losing this 'thing' that makes us a distinctive community. In the aftermath of the events of 11 September 2001, security/citizenship practices took place in a climate that Judith Butler has described as one of 'heightened vulnerability and aggression' and, more specifically, of 'heightened nationalist discourse' (2004a: xi). These nationalistic discourses and practices were heavily racialized and gendered: young Muslim men in European and North American countries were routinely cast as 'suspicious subjects', while Muslim, Arab, Sikh and South Asian minorities were often conflated as 'the same' or 'mistaken' for one another.[1] As part of this visual economy, some markers of cultural and religious difference (such as the turban and the veil) became heavily politicized and targeted as objects of difference that represented a potential threat. And *certain kinds* of bodies were understood 'as [more] inclined to commit violence or having tendencies of violence essential to them' (Grewal 2005: 201). These racialized and gendered categorizations were not altogether new but formed a rearticulation of older colonial legacies (Gregory 2004; but see also Grewal 2005: 210). Deeply entrenched histories of orientalist representations therefore contributed to the way in which an image of 'danger' or 'threat' seemed to 'stick' to *particular* bodies more easily than others (as discussed in Puar 2007: 186–87). The highly charged political context served as a reminder (should such a reminder be needed) of how nationalist discourse intersects with racism (see Balibar 1991) and cultivates an atmosphere of suspicion of the 'other'.

As Benedict Anderson describes, national identities are imagined through narratives that affirm that we are travelling on a common journey, moving in a straightforward line from the past to the present to the future. This is what enables the nation to appear as a 'solid community moving steadily down (or up) history' (1991: 26). But it is also what secures a community of 'us' that can be distinguished from 'them' outside. This is because the idea that 'we' share a history and a future makes possible the suggestion that 'we' are also different from those who do not share in this history and future. There is, therefore, an important connection between this linear account of time and the way in which it facilitates a spatial distinction between 'insiders' and 'outsiders' (Walker 1993). The idea of sharing in a common national journey, and of living together within the clearly bounded space of the state, congeal and 'secure' the image of a community in unity.

We can turn to an example of how the narrative of travelling on a common journey is invoked in security discourses by way of a report published by the think-tank, the Royal United Service Institute (RUSI), an institute specializing in defence and security matters in the UK. This example demonstrates that there is more to discourses of security than 'countering existential threats to the nation' – they also work to shape particular 'forms of living together' (Noxolo and Huysmans 2009: 4): in this case, to affirm the presence and necessity of the nation. Published against the backdrop of the War on Terror, and titled 'Risk, threat and security: The case of the United Kingdom' (Prins and Salisbury 2008), the report mobilizes an

idea of 'community in unity' by invoking an understanding of time as linear, progressive and all-inclusive. According to the authors, Gwyn Prins, Professor at the London School of Economics, and Lord Salisbury, former cabinet minister for the Conservative party: 'The United Kingdom presents itself as a target, as a fragmenting, post-Christian society, increasingly divided about interpretations of its history, about its national aims, its values and in its political identity' (2008: 7). The authors go on to argue that a 'post-Christian' British society lacks confidence in its identity, in marked contrast to the 'implacability of its Islamist terrorist enemy' (2008: 7).[2] In presenting a shift from a more secure, united and 'Christian' time gone by, to a 'fragmenting, post-Christian' present, the report constructs an account of Britishness through a trajectory of *loss*. It describes a fall from a time when we were secure in our identities to a time of confusion and difference. And in doing so, it succeeds in projecting an account of what makes 'us' British, and different from 'them'. There is, however, a paradox at work here, because we only come to realize that we are British by realizing that we have lost something that is inherently British. This 'thing' that binds us and makes us who we are is a thing that we no longer have. Crucially, however, the suggestion is that this 'thing' that we have lost can be recovered again in the future, which propels the need to keep on insisting on a range of security practices. What we find in this deeply conservative and nationalistic report is the mobilization of a distinction between unity and difference, insiders and outsiders, and this is achieved through a temporal account of loss and potential recovery by way of a common journey.

How might we begin to imagine community without subscribing to the language, logic and temporality of nationalism? The very concept of 'imagining community' summons up Benedict Anderson's significant work on this subject (1991). But whilst Anderson presents a lucid analysis of the way in which this 'imagined community' is made possible, he does not necessarily provide us with the critical tools for disrupting this framing of community. His project is directed towards asking how nations 'have come into historical being', how 'their meanings have changed over time', and why nations should command 'such profound emotional legitimacy' (1991: 4). This chapter shares with Anderson a concern with the question of how nations command such profound emotional legitimacy. But it takes that question in a slightly different direction by asking how we might think *against* nationalist understandings of community. Or put another way, how might we disentangle the idea of community from the principle of national belonging? This is a difficult task as conceptions of political community are still overwhelmingly dominated by the presumption of 'sociocultural homogenenity' and/or 'territorial boundedness' (Baker and Bartelson 2009: 2). Nevertheless, I want to propose that the postcolonial theorist Homi Bhabha and the feminist theorist Judith Butler are useful allies in helping us rearticulate and contest the dominant understanding of a 'community in unity'. I want to focus on the way in which both rework ideas of time and 'loss' in ways that offer critical entry points for interrogating nationalism, and which also offer openings for reimagining the possibility of political community.[3]

The one and the many

Despite the way in which the RUSI Report presents 'difference' as a danger, it would be misleading to suggest that the problem is simply that national ideas of community fail to attend to the politics of difference. As became especially evident in the political context of the War on Terror, nationalist and multicultural ideas of community also travelled together and operated a very similar logic about the threat from 'outsiders' (Closs Stephens 2007). The principle of national unity can, therefore, also be invoked through a multicultural register. This can be gleaned in the advertisement released by the American ad council on 21 September 2001 which formed the impetus for Cynthia Weber's '*I Am an American*' short film project.[4] This 30-second advertisement 'helped the country to unite in the wake of the terrorist attacks' (Weber 2007): it introduced a range of people from different ethnic backgrounds, representing a diversity of age groups and occupations, all staring to camera and declaring, one after another, 'I am an American'. As such, nationality and patriotism are embodied by these subjects (Nyers 2010). The effect is to produce an image of 'cosmopolitan' America which 'welcomes' immigrants (in contrast to the RUSI standpoint, which warned that Britain 'failed to lay down the line to immigrant communities' (Prins and Salisbury 2008: 7). But what this advertisement shows us is that discourses of multiculturalism and cosmopolitanism can work as techniques of the state and of security practices, in a way that 'tolerates' some differences whilst excluding others (Fortier 2008). This forms what Anne-Marie Fortier has described as a 'multiculturalist nationalism' where '*some* minoritized subjects acquire legitimacy and the right to speak as citizens', while others do not, in a gesture that defends against accusations of *in*tolerance on behalf of the state, but nevertheless continues to establish determinations between insiders and outsiders (Fortier 2008: 18; see also Weber 2010: 81).[5]

The idea of 'community in unity' might therefore be put to work in a highly nationalistic account that prioritizes the need to reaffirm 'our national aims, values and political identity', as in the RUSI report; but it can also operate on a multiculturalist nationalist register. This shows us that any attempt at contestation needs to go further than arguing that multicultural ideas of community are preferable. For example, a position that argues that 'being British' involves embracing multiculturalism and not being afraid of it, has its place, and remains an imperative strategy. But such strategies of resistance are also vulnerable because they join the argument on nationalism's terms. They join the debate by arguing over the *extent* to which we should privilege identity or difference, but unity remains a key principle and political community continues to be crafted onto a political map of nation-states. On this point, William Connolly has argued that more liberal images of the nation ultimately 'tend to collapse under pressure from rightist orientations to the nation that are more thick and dense' (Connolly 2005: 8). This might be the case especially at 'times of national emergency'.

In prompting us to think community in other ways, Homi Bhabha suggests that the challenge is not to 'choose' between nationalism and multiculturalism but to

consider the spatial and, as important, the temporal framings that enable different ideas of community. For example, in contrast to Benedict Anderson's understanding of the nation as constructed through a 'homogenous empty' understanding of time, in which past, present and future follow upon one another in progression, Homi Bhabha argues that we should understand the nation through a 'double' and 'split' understanding of time. The implications of this shift are that a national community appears as less of a 'holistic cultural entity' (Bhabha 2004: 201) that can be traced along a straightforward arc through history, and instead, as fluid and contingent. Bhabha reminds us that whilst nationalism may speak of settled identities, it has mostly been formed through migration and mass unsettlement (from the mass migration that followed the First World War in Europe to the histories of decolonization in Asia and Africa). As he argues further, whilst the people of the nation are imagined to be the 'objects' of solid, national tradition, they are also the 'subjects' of the contemporary life of the nation. Bhabha emphasizes that 'the people' do not for him represent 'the beginning nor the end of the national narrative' but the 'cutting edge between the totalizing powers of the "social" as homogenous, consensual community, and the forces that signify the more specific address to contentious, unequal interests and identities within the population' (2004: 209). With this split understanding of the time of the people, Bhabha seeks to recover something of the energy it takes to uphold an image of national community, and to suggest 'Sameness of time, turning Territory into Tradition, turning the People into One' (2004: 213).

I want to suggest that Cynthia Weber's film project forms a political intervention that works in this vein. Weber began the project by enquiring into the stories behind the declaration 'I am an American' presented by the ad council advert, in order to contest the flat, one-dimensional and ultimately apolitical image of an American community of citizens.[6] She invited differently placed American citizens (as well as non-citizens, and those with an uncertain status) to tell their stories to camera, and in a series of four-minute films, a multifarious picture develops of a range of experiences of 'belonging' to the US nation. The films feature a series of sustained interviews with individuals including hurricane Katrina evacuees Greg and Glenda Avery, who recall being described as 'refugees' in their own country; Guadalupe Denogean, a retired member of the US military, who was fast tracked to full US citizenship after being seriously injured in the war in Iraq; undocumented immigrant Elvira Arellano who is fighting deportation to remain with her son in the US; US Army Muslim Chaplin James Yee, who was detained as an alleged 'enemy combatant'; and Chris Simcox, founder of the Minuteman Civil Defense Corps who take it upon themselves to patrol the US–Mexico border to report attempts by migrants seeking to make their way to the US.

In inviting these figures to reflect upon their experiences in the wake of 11 September 2001, Weber offers a critical interrogation of different formations of citizenship. The project forms an example of 'narrating the nation' (Bhabha 1990), tracing the limits of an American national community in a way that highlights a complex array of co-existing subject positions. In direct contrast to the ad council

adverts, which finish with the US motto, E Pluribus Unum (Out of Many, One), Weber's short films end by subverting the closing motto, to proclaim, out of one, many. The technique of subverting the public service advertisement, and interrogating the stories behind the declarations of belonging, works to show the hidden and forceful practices at work in establishing who 'we' are. In this sense, we can read the project as a critical attempt to initiate a 'crisis' in the idea of a united community and in the 'construction of a collective US national identity in which body is nation, diversity is identity, and tolerance is patriotic citizenship' (Weber 2010: 81). This attempt chimes with Bhabha's aims to recover something of the force involved in producing accounts of 'unity' and the contestations, splits, and dissonance underpinning accounts of community as 'one'.

The point here is not to arrive at a 'better' representation of the nation but to reveal the fissures and tensions in any image of a 'community in unity'. In this regard, Homi Bhabha insists that his reworking of a national community differs from liberal multicultural interventions because, for him, the nation can never fully represent everybody as there is no conclusive, common identity to be sought. In reading the nation through a 'double' understanding of time, we are presented with a 'process of splitting' which forms the site for 'writing the nation' (2004: 209). Bhabha argues that the notion of 'splitting' makes the idea of one dominant claim to the nation impossible and also 'makes untenable any supremacist, or nationalist claims to cultural mastery' (2004: 215). Cynthia Weber's film project might similarly be understood to offer an alternative to liberal multicultural interventions. In inviting participants to discuss their very different experiences of US citizenship, Weber makes a familiar narrative of national belonging unfamiliar once more and exposes the 'otherness' of the nation. The films, therefore, succeed in re-presenting cultural difference in a way that shifts from being a problem of 'the other outside' to an immanent presence that disturbs and informs the nation everyday: 'It becomes a question of the otherness of the people-as-one' (Bhabha 2004: 215). As Weber herself puts it, the aim is to tease out the 'critical difference' between the 'lived reality of US citizenship … measured against the ideal of the tolerance of difference as the foundation and lived reality of the US nation-state' (Weber 2010: 83).[7]

Counter-practices

By subverting the terms of the one and the many, to place the emphasis on the *many* and not the one, Weber makes an important critical gesture. Indeed Homi Bhabha affirms that any critical interrogation of the idea of the nation must begin by 'questioning the progressive metaphor of modern social cohesion – *the many as one*' (2004: 204). But in building upon these critical interventions, I want to ask to what extent does the attention to plurality shown in the 'I am an American' films and, furthermore, in Bhabha's 'split' understanding of the nation, provide sufficient bases for contesting nationalism? Do these examples of reworking the nation also risk reproducing the language, grammar and logic of a 'community in unity'? Cynthia Weber seeks to unpack, set in motion and ultimately subvert the terms of the one and the many, in

a way that I have suggested attends to Bhabha's recommendations. But we can argue that subverting the terms of the debate does not necessarily lead to a destabilization of those terms. For example, Weber asked her participants to

> narrate their story, reflect upon their experiences of citizenship and patriotism after 9/11, create a pose (with the US flag if they so chose) that epitomized their experiences, and encapsulate their experiences into a sentence that includes the words, 'I am an American'.
>
> *(Weber 2010: 82)*

But as Ling argues, what we find in the films is that many of the participants are keen to reaffirm the idea of 'America the Beautiful' and the ideals of democracy, freedom and justice *despite* their personal experiences of injustice and exclusion and the way in which these ideals have often failed them (2010: 100). Thus whilst the films begin with an inquiry into the declaration, 'I am an American', they often lead to an intensified patriotic declaration: 'I am an American!' (Luke 2010). My point here is not to blame people for being patriotic. Rather, it is to suggest that this critical project also risks reaffirming the centrality of the nation. This return of the national demands that we reflect on the persistence of the idea of a 'community in unity' in offering the predominant terms through which we can imagine forms of belonging *as well as* enactments of critique and resistance.

The question to ask is, does the 'I am an American' project, and the idea of a 'split' understanding of the nation, offer a robust enough approach in attending to plurality, difference, and contestation, in a way that disturbs the national frame? Or does this reworking of the terms of 'the one and the many' ultimately risk rearticulating the centrality of the nation? I explore this question further in relation to Judith Butler's intervention in the next section. It points to the challenge of developing what William Connolly has described as a 'multidimensional pluralism' that exceeds both 'shallow, secular models of pluralism' *and* 'the thick idea of the highly centred nation' (2005: 8). How then might we recast our political imaginaries to consider forms of political being and co-existence beyond nationalism? What might it mean to develop forms of intervening, resisting and dissenting in political life that are attentive to 'the rapid movement of populations, ideas, technologies, identities, and faiths across generations and territorial borders' (Connolly 2005: 5)?

On the question of imagining forms of community that cross, complicate and challenge a map of nation-states, one of Weber's films is especially interesting. This is the film that features the Tohono O'odham indigenous rights activist, Ofelia Rivas, who is fighting the construction of the US–Mexico border fence across the site of her First Nation. Ofelia finds it difficult to frame her politics within national terms – by declaring her allegiance to either the American nation or the Mexican nation. Instead, she declares her affiliation to the territory and people of O'odham, a community that is not recognized by the US or Mexico as legitimate, or even recognizable, in the terms we have explored in this chapter. By proclaiming 'I am an O'odham American', Rivas challenges us to consider again what exactly we

might mean when we invoke community. She also reminds us that we do not need to defer to the point that late capitalist life encourages the 'rapid movement of populations' across territorial borders to argue that other imaginings of community might be possible. Some peoples have long understood themselves in terms that contradict a map of nation-states, as indigenous and First Nation communities occasionally attest (see Brydon and Coleman 2008). Without wishing to place too much of a burden on Rivas's film in suggesting that it represents a clear alternative (after all, it is difficult to ascertain the exact understanding of community at work in such a short intervention), we might nevertheless cautiously suggest that this film raises the possibility of another way of imagining community, one that goes beyond the notion subscribed to within the political framework of the nation-state.

Recrafting ideas of community in response to loss

In a similar way to Homi Bhabha, Judith Butler pays particular attention to ideas of time in her attempt at reimagining political community. More specifically, in the collection of essays she published in response to the events of 11 September 2001 and the political climate that followed, she seeks to rework the notion of *loss* so that it is not posed as a moment legitimizing an aggravated avowal of national identity, as in the Prins and Salisbury report but, rather, so that it informs a contingent, split and incomplete understanding of community. Butler therefore suggests that moments of high insecurity producing strong individual and collective grief might also offer moments for contesting nationalist narratives and recrafting ideas of community (2006). Like many others writing in the aftermath of the events of 11 September 2001, Butler was especially concerned at the way in which it became difficult to express any sort of critical position without risking the accusation of being 'unpatriotic' (see also chapter 2 of Brown 2005). Nevertheless, the initial *lack* of certainty and lack of clear narratives as to what exactly had happened, and to whom, instilled a sense of 'the contingency of political community', as Jenny Edkins has also argued (2003: 19). But as both Edkins and Butler have claimed, this period of uncertainty was quickly overshadowed by the 'reaffirmation of solidarity and nationhood' (Edkins 2003: 19). The trouble with this affirmation was that it became 'difficult to distinguish calls for a recognition of the trauma from calls for revenge' (Edkins 2003: 19). Rather than react to tragic events by 'heighten[ing] nationalist discourse, extend[ing] surveillance mechanisms, [and] suspend[ing] constitutional rights', Butler explores how we might respond to tragedy in other ways, specifically by redefining the idea of the United States and its position as part of a global community (2006: xi).

Butler offers some sensitive deliberations on the experience of loss – to AIDS, to illness, and to global conflict – in order to try to think about loss in a way that might lead to another 'reorientation for politics' (2006: 28). She is especially concerned to draw out the complex character of loss – that we do not necessarily know when mourning is successful or complete, or that we cannot necessarily pinpoint exactly what it is that we have lost. This echoes with some of her other work on the way

in which grieving the loss of a gay or lesbian partner means facing a loss that is often 'ungrievable' within traditional familial structures and practices of mourning (Butler 2004; Bell 1999; Lloyd 2008). She extends this work to discuss the way in which *certain* lives lost in conditions of war, which are not counted by state registers and not recognized or acknowledged in any official sense as having been lost, also appear 'ungrievable'. In a powerful question, she asks: 'who counts as human? Whose lives count as lives? And … what *makes for a grievable life?*' (2006: 20). As she puts it, we have all lost. But instead of establishing this as a point of originary commonality, Butler suggests that mourning might make a 'tenuous "we" of us all' (2006: 20). She therefore refuses to think of loss as a foundational moment from which we might move on 'together' – in marked contrast to George Bush's announcement on 21 September 2001 that the time for mourning was over, and that now was the time for action. Instead, she draws out the continuing and complex experience of loss to argue that this is not something that can be easily located or atoned through nationalism and retaliation.[8]

Butler suggests that we attend to the inescapability of our common vulnerability. Whilst security practices might suggest that vulnerability is something we have to defend against or overcome, Butler begins elsewhere, suggesting that vulnerability is ultimately unavoidable and that taking it seriously might encourage us to reconsider how we understand political being. For example, she argues that grief, loss and vulnerability challenge the myth of an autonomous and self-determining citizen: 'Something is larger than one's own deliberate plan, one's own project, one's own knowing and choosing' (2006: 21). Rather than understand community as something that is built around autonomous citizens agreeing to a common contract, she suggests that the idea of individuals as autonomous agents needs to be challenged. In this sense, grief poses a 'challenge [to] the very notion of ourselves as autonomous and in control' (2006: 23). This leads Butler to suggest that we rethink political community as formed around an unavoidable relationality. This point is somewhat reminiscent of the work of philosopher Jean-Luc Nancy (1991), who argues that the idea that community is something that *follows* from self-contained individuals coming together is back-to-front (Coward 2009: 254). For Nancy, we are always already with others; indeed, being can only be understood in relation to our being with others. Butler's reworking of community as relationality seems to draw upon some of this work.[9] But it is also different in that, for Butler, this account of relationality derives from her interest in the way *bodies* intermingle and how 'the skin and the flesh expose us to the gaze of others but also to touch and to violence' (2004: 21). She, therefore, begins from the starting point that we are constituted conditionally and incompletely in relation to one another. As she puts it, we do not encounter, lose, or indeed fall in love with an other as autonomous beings; rather, we are transformed, turned upside down and unsettled by our meetings with others: 'It is not as if an "I" exists independently over here and then simply loses a "you" over there, especially if the attachment to "you" is part of what composes who "I" am' (2006: 22). This is not a relation that links a solid me with a separate you, but rather concentrates on the tie through which we find ourselves already

negotiating our place in the world. Her aim is to open up the question of community anew, reveal its contingency, and suggest that it may be crafted, imagined and mobilized differently: 'When we say "we" we do nothing more than designate this very problematic' (2006: 25).

Modes of critique and 'new nationalisms'

Butler offers us important and thought-provoking material for reimagining the idea of a community in unity – both national and international – that formed the overwhelming response to the events of 11 September 2001. Yet, it is surprising how far Butler goes in this book to identify with an American community in unity. Let's take this long quotation as a point for discussion:

> Our collective responsibility not merely as a nation, but as part of an international community based on a commitment to equality and non-violent cooperation, requires that we ask how these conditions came about, and endeavor to re-create social and political conditions on more sustaining grounds. This means, in part, hearing beyond what we are able to hear. And it means as well being open to narration that decenters us from our supremacy, in both its right- and left-wing forms.
>
> *(Butler 2006: 18–19)*

Given that Butler's reading community assumes a more complex, European-based and 'academic' form than an exclusively American reading public, it is fairly surprising that, on this occasion, she chooses to position herself as an American addressing her fellow citizens. In speaking to the community of the United States, she will know that she is contributing to the discursive construction and reification of that community. She may have felt that this was an imperative position to take, given the broader political context of the time, and what she describes as 'a rise of anti-intellectualism and a growing acceptance of censorship within the media' (2006: 3). She may have adopted this appeal to an American national community as a way of making her voice heard under conditions that made it difficult to offer any critique of the United States administration and its foreign policy. However, I want to ask whether in assuming this rhetorical stance, Butler also contradicts some of her other efforts to seek alternative forms of imagining community. This fleeting appeal to a national community might also remind us of the *persistence* of the idea of a 'community in unity' in offering the dominant terms through which we can frame and enact critique, dissent and resistance.

What is interesting and fruitful about thinking with and against Butler is that she is interested in the challenge of how we might think political being on other terms. In this regard, she is especially attentive to the delicate and perilous line between resistance and co-optation (McRobbie 2006: 77). Indeed, in a slight contrast in emphasis to Homi Bhabha's declaration that a critical understanding of the nation as 'split' makes any supremacist or nationalist claim to cultural mastery untenable,

Butler is far more ambivalent on what might constitute a critical reworking of the nation. For example, in her dialogue with the postcolonial critic Gayatri Chakravorty Spivak, she asks: 'is it that easy in practice to be able to determine what forms a critical re-working of the nation and what risks becoming a "new nationalism"'? (Butler and Spivak 2007: 61). This is an important question and, for this reason, Butler is an important figure for anyone interested in the pitfalls of insisting on community as a precondition for mobilizing politically. But this is also what makes her fleeting appeal to an American national community so interesting: Butler is aware of the risks involved in reproducing the exclusionary categories that she sets out to struggle against. As Maja Zehfuss has put it in another attempt to think with and against Butler: 'there is … an inescapable irony in Butler's position. She chooses to speak within the frame that she critiques' (Zehfuss 2009: 423). Butler tells us in earlier writings that sometimes we have no choice, when 'utterly subjected', to reiterate the law of an original identity (1999: 135). Did the conditions of thinking and writing in the United States during the Bush administration's War on Terror represent such a time, where critical theorists ostensibly had no choice but to reproduce the law of an original identity? Is it the case that a critique of 'community in unity' remains the luxury of critical thinking in less insecure times?

I want to suggest that reading this appeal as simply a 'tactical strategy' is insufficient. The question to ask in this context is: why does critique so often seem to re-territorialize around the image of a national community? Butler often writes about how attempts to assert community risk becoming nostalgic, conservative and exclusionary and reproduce a dynamic where difference is seen as a threat. This forms part of the subject of *Gender Trouble* (1999), when that book addresses the risks of mobilizing as a feminist community around the stable identity category of 'woman'. It also forms a topic in her dialogues with Gayatri Spivak when she insists on the need to be 'suspicious of any and all forms of national homogeneity, however internally qualified they may be' (Butler and Spivak 2007: 32). The appeal to a national community offered in *Precarious Life* (Butler 2006) must, then, be read with Butler against Butler. To borrow her question: who is able to hear this call to decentre 'us' from 'our' supremacy? Who is she addressing and who might feel excluded from the call? It is especially interesting that she chooses to suggest that the climate of heightened violence that followed the events of 11 September 2001 was primarily a problem for the United States. As she goes on to say:

> I consider our recent trauma to be an opportunity for a reconsideration of United States hubris and the importance of establishing more radically egalitarian international ties … the notion of the world itself as a sovereign entitlement of the United States must be given up, lost, and mourned, as narcissistic and grandiose fantasies must be lost and mourned. From the subsequent experience of loss and fragility, however, the possibility of making different kinds of ties emerges.
>
> *(Butler 2006: 40)*

What is striking about this passage is that it seems to recommend a turn *inwards*, to a conversation that takes place *within* the United States before the US can 'emerge' back into the world to establish different kinds of ties. This approach seems to contradict a notion of politics that begins with thinking the *tie* or *relation* between people and instead comes close to suggesting that politics begins from a self-contained political community. But the attacks on the two cities of New York and Washington *had to be written* and *talked* into a national narrative; after all, they killed citizens from many different parts of the world, and did not have to be understood through a national frame (see Smith quoted in Elden 2009: xvi). Butler would, of course, appreciate these points; nevertheless, it seems that this momentary appeal to the US nation can be read as an example of nationalism's relentless ability to establish the grounds of political debate – as well as the grounds for forming critique, resistance and other ways of understanding what it means to be political.

It is important to note that Butler is at her best in positing this challenge of how we might formulate critical interventions in ways that are not already present, available and predictable. She is also deeply ambivalent about the possibilities of forming 'new' imaginaries, or at least of making any promises as to how these might work out in practice. In her earlier work on how we might subvert and recraft gender identities, she insists that no critical intervention can offer the guarantee of subversion (1999: xiv). As she puts it in a stunning line in *Gender Trouble*, 'the law has an uncanny capacity to produce only those rebellions that it can guarantee will – out of fidelity – defeat themselves' (1999: 135). This strikes a more cautious tone to that offered by Bhabha, who suggests that a split understanding of the nation 'makes untenable any supremacist, or nationalist claims to cultural mastery' (2004: 215). Butler's point is that forms of rebellion often defeat themselves by reproducing the familiar models of political life that we initially set out to struggle against. Drawing on Butler's words of caution, we might wonder whether alternative accounts of 'loss' offer a robust enough basis for contesting nationalism. We established in the first part of the chapter that the idea of a 'lost' unity is central to the construction and consolidation of a national imaginary. Although Butler works with a very different understanding of loss, which rejects the idea that this forms the basis of our commonality, perhaps ideas of loss ultimately resonate too much with the language, imagery and grammar of nationalism.

Conclusion

This chapter has addressed ideas of political community that were crafted and contested under the climate of heightened insecurity that followed the events of 11 September 2001. It has suggested that moments of heightened insecurity might form opportunities for contesting the discourses and practices of nationalism and for imagining community, co-existence and political being on other terms. Nevertheless, the chapter has also argued that the language, grammar and logic of nationalism remains extremely dominant in steering our understandings of political community, and critical interventions often have difficulty in imagining alternatives that

escape this national frame. This is not a reason to give up on thinking alternatives but quite the opposite: we should be encouraged to be even more imaginative, creative, playful and mischievous in thinking how to contest and twist the logics of nationalism.

Cynthia Weber's film project offers a provocative intervention, and represents an important critical move in unfurling the image of a 'community in unity' to reveal the disjunctures, differences, inequalities and injustices that form the liminalities of the nation. I have suggested that this project can be read as an example of Homi Bhabha's call to re-read the nation through a split understanding of time, which reveals the force required to achieve accounts of community as 'one'. But I have also suggested that the project risks reproducing the significance of the nation as the main vehicle for 'imagining community'. This implies that the nation remains persistent in framing ways of being political. With this point in mind, I turned to Judith Butler's work, written in response to the events of 11 September 2001 and their aftermath, and her attempt at rethinking community through an account of loss. Drawing on ideas about vulnerability and relationality, Butler seeks to undo the assumptions of linear time and subjectivity as mastery that accompany nationalist accounts of loss. As such, she provides important avenues for resisting nationalist thought. Nevertheless, I argued that Butler also seems to get caught momentarily in reaffirming the centrality of the nation. Thus, by thinking both *with* and *against* Weber and Butler's interventions, this chapter has addressed different counter-practices operating at the interstices between citizenship and security. In doing so, it has engaged with openings for recrafting ideas of political community whilst noting the continued difficulties we have in thinking political community beyond the nation.

Notes

1 Jasbir K. Puar makes an important point that defining the problem as one of 'mistaken identities' is misleading. This is because it implies that someone is willing to learn the differences between forms of difference (for example, a Sikh turban and a Muslim turban, or different forms of veiling). It also suggests that the backlash towards certain minorities represents a displacement of hostility from the 'rightful object' – that is, the 'real' Muslims (2007: 167).

2 The report represents a nationalist call to reaffirm a strong British identity in the face of 'Islamist terrorism'. This was a highly provocative concept that circulated in this climate and one which, in attaching the name of one particular religion to the vague descriptor of 'terrorism', challenged particular individuals and communities to have to *disprove* that there was such a connection.

3 Bhabha's re-reading of the nation resonates with Butler's work on rethinking gender through performativity, as Butler acknowledges elsewhere (1999: 192).

4 These ad council adverts have been described as 'unique ideological artifacts' that can be traced back to 1942 and Second World War slogans, including 'Loose Lips Sink Ships' (see Luke 2010: 86).

5 The practice of distinguishing between minoritized subjects who are deemed acceptable and minoritized subjects who are deemed unacceptable played out in the context of the War on Terror through a distinction routinely drawn between 'good Muslims' and 'bad Muslims' (Mamdani 2002), and between 'acceptable' elements of Islam and

'unacceptable' elements. The question to ask here is who gets to decide what forms an 'acceptable' cultural/religious practice, on what grounds, and under what authority?

6 *International Political Sociology* (2010, 4(1)) has published a forum of critical responses to Cynthia Weber's multi-media project which is well worth visiting for further interpretations of this work.

7 It is worth noting that the project also attempts to reach out beyond the familiar audiences of academic scholarship. The films are posted on the *Open Democracy* website and on *YouTube*, and have been shown in various galleries, museums and film festivals across the US, UK and Mexico, giving participants and viewers an opportunity to offer their own voices to the project.

8 This attempt to rework 'loss' chimes with the work of Edkins (2003) who focuses specifically on questions of trauma and memory; Gilroy (2004) (drawing on the work of psychoanalysts Alexander and Margarete Mitscherlich) who develops an argument about the 'postcolonial melancholia' latent in dominant accounts of Britishness (107–16, 125–32) and contrasts this to the notion of a 'convivial culture' that 'is no longer phobic about the prospect of exposure to either strangers or otherness' (108, see also, chapter 4); and Ahmed (2010), who also reworks the idea of 'melancholia' (drawing on and adapting Freud's 1917 essay 'Mourning and Melancholia') in her critical reflections on multiculturalist nationalism developed through a very compelling reading of the film *Bend it like Beckham* (see 138–60).

9 It is important to note, however, that Butler is unsure how far she would go in pinning down this account as a new political orientation, or even in naming it conclusively as 'relationality' (2006: 24).

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PART IV

Democracy in action in times of insecurity

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12

THE RIGHT TO PROTECT AND THE RIGHT TO PROTECTION, AND HOW DEMOCRACIES BALANCE THEM

Yagil Levy

How does the state encourage individuals to willingly sacrifice their lives for their country? This unresolved problem has long troubled social scientists. It takes us from taken-for-granted assumptions about citizens' duty to protect their country, to mechanisms and structures that assume interstices between security and citizenship. In these interstices, providing security to citizens may be politically contested, because it requires people to sacrifice their lives to protect others. In other words, individuals are asked to give up their rights to protection by protecting the rights of others. Thus, questions regarding the entitlement to protection versus the duty to protect make the status of citizens – either as protectors or as those being protected – politically negotiated and contested, as well as having an impact on the status of citizenship.

According to Max Weber's (1958) seminal definition, the modern state has a monopoly on the legitimate use of violence. This monopoly also means that the state manages its citizens' lives and deaths. It has the authority to determine who will be sacrificed as soldiers protecting civilians, who will be sacrificed as civilians because the price of protecting them is too high and, of course, who will be killed as an enemy while defending the state's civilians. But what prompts individuals to be willing to make such a sacrifice? Hobbes (1962: 1651) developed the idea that the state is created through a social contract. In this contract, citizens concede some of their freedoms, including the readiness of youngsters to sacrifice their lives, in exchange for the state's assumption of the obligation to provide them with security as part of the provision of political order. This order should offset the loss of freedom entailed in consenting to the state's authority.

Here, security and citizenship are mutually affected. Citizens' right to protection is manifested by their readiness to protect the lives of others. However, as Margaret Levi (1997: 5) has noted, Hobbes' argument embodies a tension. At the same time as the government demands that a young man potentially gives up his life for his

country, which represents the superiority of the needs of the state over the rights of the individual, the state is also designated to protect the rights of the individual, an idea representing the superiority of the rights of the individual over the needs of the state. Furthermore, state-supplied protection is a public good, access to which is not contingent upon one's contribution, and can thus be subject to 'free rider syndrome'.

Levi offers a partial solution to these two tensions by suggesting that the motivation for sacrifice is mainly determined by the level of burden-sharing. Observing that compliance with conscription is largely contingent upon citizens' perceptions that both the government and other citizens are acting fairly, Levi's model of 'contingent consent' is an effective tool for understanding the motivation for sacrifice. It assumes that sacrifice should be legitimized rather than authoritatively imposed, since the option of dissent has historically always been available.

However, the burden has never been equally imposed, even in the golden age of the draft; it may be fair, but not necessarily equal. An unequal burden that also guarantees privileged rewards is less likely to give rise to disobedience, resistance or the avoidance of military service than a situation in which the bearers of an equally imposed burden lose their trust in the state's capacity to reward them appropriately (see Tilly 2004). Thus, we should focus on the differential return for sacrifice rather than only on the equal distribution of that sacrifice. We may assume that political institutions legitimize burdens by rewarding the bearers of those burdens, and look at the practices of citizenship that create such a reward system.

This chapter argues that the theme of the *republican contract*, as inspired by the school of state formation, helps mitigate this tension. It accomplishes this goal by implying that the implementation of the Hobbesian contract is anchored in a social hierarchy that creates a balanced affinity between two sets of rights – the right to protect and the right to protection. An imbalance between these rights endangers the state's ability to provide security, thus encouraging the state to rebalance the rights. The chapter proceeds as follows. The first section outlines the republican contract. It is followed by a description of the conditions under which the contract is undermined, and the state's strategies to rebalance it. The third section analyses the implications of this rebalancing process for the status of both sets of rights.

The republican contract

At the heart of the state formation tradition lies the mutually generating mechanism between war and state formation, as put forward in Tilly's (1992) 'war makes state' argument. Historically, the extensive introduction of artillery and gunpowder in sixteenth- and seventeenth-century warfare led state agencies to recruit resources for military build-up, provided that geopolitical competition justified raising armament levels. State activities aimed at preparing for and legitimizing war (even without waging war *in actum*) became a lever for internal state expansion by means of administrative concentration (Barnett 1992; Giddens 1985). In turn, the extraction of resources led to patterns of bargaining with groups which controlled the human

and material resources needed for waging war. In this reciprocal arrangement, citizens were willing to sacrifice their lives (as soldiers) and wealth (as taxpayers) for bearing the costs of war and preparations for it, in return for security as well as the civil, political and social rights granted them by the state (Janowitz 1976; Tilly 1997: 193–215). Furthermore, providing social welfare and political rights was instrumental in strengthening the loyalty of the masses to the ruling regime, particularly with the advent of mass armies in the nineteenth century (Andreski 1954: 69–70).

This process formed the *republican contract*, which refers to relations of exchange between the state's civilian institutions and the citizenry. As part of the terms of this contract, the state provides its citizenry with rights and protection, in exchange for military sacrifice. Central to the republican contract is the institution of the citizen-soldier, the embodiment of the original interstice between security and citizenship, according to which soldiering (and related forms of sacrifice) forms a critical criterion for the allocation of civilian rights. This exchange promoted democratization and the development of the welfare state (Skocpol 1992; Tilly 1997: 193–215). Allocation of rights to soldiers established the right to protect as a 'right to other rights'.

With the ascendancy of republican principles that conceived of military sacrifice as the supreme civic obligation (Oldfield 1990), members of groups that had not been recognized as full citizens could improve, or at least expect to improve, their social standing by serving in the military (Janowitz 1976). Over time, working-class groups, ethnic minorities, and gradually women and homosexuals all strove to utilize military service as a mechanism for (expected) social mobility and for their formal and/or symbolic integration into the political community as citizens. Unlike middle-class groups, whose right to serve was well-established, for these groups, access to arms required breaking down barriers that had hitherto prevented their military participation. The more the discourse was predicated on republican underpinnings, the better the ability of these groups to convert their military sacrifice into rights (Krebs 2006). This tradeoff was another dimension of the interstice between security and citizenship. It reframed the original interstice by empowering minority and unrepresented groups. Moreover, by differentially classifying social groups, military service not only determines uniform eligibility for citizenship, but also establishes its hierarchical status (see Soysal 1994). When seemingly universalist criteria for recruitment and promotion are coupled with the conferring of existential meaning on the application and consequences of those criteria, privileged groups are able to invoke their military status to legitimate their social status. They can leverage their military service to justify the rights, positions, wealth and power that they possess relative to, or at the expense of, their subordinated counterparts (Levy 1998).

Examples of hierarchy making include: (1) the male-dominated system of war that influences inter-gender power relations in society (Goldstein 2001); (2) the privileged social position of dominant groups in the military such as the *Ashkenazim* in Israel, who converted their preeminence in the military into social dominance, or the U.S. military's historical role in entrenching the inferior position of African-Americans (Levy 1998); and (3) the role of the French *Levée en Masse* of 1793, which created the status of the citizen-soldier by declaring that all men were equally liable

for service regardless of social distinction, thereby introducing a new language of citizenship, rights and duties, and moral legitimation (Forrest 2003). In sum, social hierarchies were constructed around the status of soldiering, with initial marginalizing effects on women, ethnic minorities and other groups. This unequal burden was translated into, and thereby compensated by, a privileged social position.

Allocation of political rights in return for military sacrifice also took the form of civilian control over the armed forces, another dimension of the interstices between citizenship and security. The citizen-soldier embodied the republican model of transferring sovereignty from the ruler to the community of citizens who staffed and controlled the military politically. Ultimately, as Kohn (1997: 141) argues, 'civilian control allows a nation to base its values, institutions, and practices on the popular will rather than on the choices of military leaders'.

The execution of the right to protect facilitates the execution of the right to protection, thanks to the readiness of the bearers of arms to sacrifice themselves in order to protect others. Therefore, a balanced contract entails a balance between these two sets of rights. A high level of social readiness to sacrifice is achieved when the right to protect retains its meaning as an avenue to other rights, and hence upholds the right to protection. Reciprocally, the fulfilled right to protection further solidifies the right to protect, as protection is among the rights that states provide their citizens in exchange for their sacrifice. Balancing these rights guarantees a balanced republican contract with a symmetrical level of rewards versus sacrifice (at least in the eyes of the groups involved). As such, the theme of contract offers a solution to the unresolved problem in Levi's work, demonstrating that 'contingent consent' can be maintained despite the unequal sharing of the defence burden.

Nevertheless, the citizen's right to protection can clash with the right to protect when the state fails to sustain this 'right to other rights'. Then, the republican contract is undermined. This violation occurs when the gains made in the military, or because of it, are socially devalued relative to the level of sacrifice. Among the conditions that can cause this breach are: (1) a decrease in the level of the security provided (such as military failures that happen despite social investment in the military); (2) an increase in the social and political costs that providing security entails, particularly when it is disproportionate to the level of security provided; (3) a decline in the level of perceived external threats (which is not an objective entity, but rather a discursive construction, see Wendt 1992), that devalues the security provided and thus increases its costs proportionally; and (4) a decline in the social rights and other benefits accruing to serving groups, including a decline in the status of soldiering as a justification to claim rights. To be sure, devaluation implies a social and cultural construct rather than objective calculations. In sum, devaluation affects either the value of security (the right to protection) or the value of the rewards reaped in return (the right to protect).

Historically, since the 1970s, middle-class groups in Western democracies have expressed sentiments that suggest an imbalanced contract. Several factors contributed to this trend: (1) The cost of security rose as the Cold War drew to a close during the 1970s. Costs rose in relative (though not necessarily absolute) terms

insofar as the priority given to economic and physical security declined over time (Inglehart 1990); (2) The rise of individualism came at the expense of dedication to serving one's country, and actually contradicted the very values of military service such as sacrifice and discipline (see Smith 2005); (3) Citizenship was gradually divorced from soldiering as the middle class came to realize considerable achievements that were no longer dependent on military service (Burk 1995). In addition, and due to technological developments, military service was eroded as a route to active citizenship for the middle class (Turner 2001). Decoupling citizenship from soldiering devalued the latter.

In such a situation, citizens' right to protection is jeopardized, because it is asymmetrically compensated by the right to protect, as a right to other rights, which originally motivated the willingness to sacrifice. Alternatively, the right to protect is asymmetrically translated into the provision of an adequate level of security, or at least so it seems. The sense of imbalance arises because the level of security is poor, or too costly when weighed against the perceptions of threat, or against the gains earned by those groups bearing the brunt of security. If, for example, as Moskos (2001) claims, 'the substantial federal aid given to college students . . . created a G.I. Bill without the G.I.', then those who serve (or potentially serve) might feel that their right to protect (again, as an avenue to other rights), is asymmetrical relative to the level of the sacrifice entailed in fulfilling the right to protection.

In the face of these sentiments, individual or collective action can be undertaken to repair the republican contract. Such efforts might involve reducing the burden (the approach taken by antiwar groups who challenged the draft system, or other voices which highlighted the casualty sensitivity that has increased in democratic societies since the 1970s and has played a key role in limiting the state's freedom to deploy the armed forces on military missions), or increasing the returns for service (in the form of those demanding rights or monetary rewards). Thus, the violation of this contract inhibits the power of the state to sacrifice those who feel affected by this violation. Furthermore, even if the state can mobilize its young people to die, it must try to do so at the lowest cost possible, avoiding political protests that limit its autonomy to manage its military policies. In sum, when potential protectors question their rights-generated duty to protect, the citizens' right to protection is undermined.

Rebalancing strategies

Historically, states have used multiple strategies to rebalance the values of the two sets of rights involved, increasing or decreasing each one. It is worth emphasizing that a strategy is not necessarily the same as an intended action. Four strategies are enumerated: (1) increasing demand for protection, (2) increasing compensation for sacrifice, (3) reducing military protection, and (4) redistributing the military burden. While the first two strategies represent inchoative dimensions of the rebalancing efforts, strategies (3) and (4) either follow the first two strategies once they have failed, or are used in alternation or in combination alongside them.

The first balancing strategy, also the most readily available, is to artificially increase the demand for security by leveraging external threats. This move typified the historical state formation phase, when the state became a protection racket (Tilly 1985). States can even exaggerate threats by supplying incomplete information or engaging in outright deception (Lake 1992). Part of this discourse is the geopolitical discourse that creates ideological boundaries between 'Them' and 'Us', and views 'Them' as a threat to 'Us' (Dalby 1990). More specifically, securitization, as introduced by Buzan, Wæver and de Wilde (1998), implies identifying an existential threat and using extraordinary measures to deal with it. Securitization helps conceptualize security as being 'beyond politics', if the existential threat is related to survival. 'Beyond politics' implies the undermining of efforts to conduct a substantive debate over security policies, causing the public to forfeit a significant political right. Securitization also extends to other public spheres and redefines them as threats. For example, the securitization of immigration as a risk since the 1990s has helped rehabilitate the state's mechanisms of internal control over its territorial boundaries (Bigo 2002). The creation of an emergency regime in order to overcome perceived external threats forms another part of this repertoire. Examples of such regimes are those that came into being in the West following the Al Qaeda attacks. This strategy can lead to two outcomes. First, states can justify the military burden (in terms of money and blood) and thereby curtail pressures to reduce costs or increase rewards in exchange for sacrifice. Second, states can manipulate the external threat so that military sacrifice is regarded as worthy of greater social recognition, thus revalidating the 'right to protect' embodied in bearing arms. Sacrifice can be augmented as a reward in and of itself, encouraging claims such as 'the right to fight'. In sum, this strategy enhances the right to protection, either in practice or in an imaginary, manipulative manner.

The second balancing strategy is to increase compensation for military sacrifice in line with the traditional republican ethos, especially if the first strategy has proved ineffective. Granting soldiers and their families political rights is an optional act. Political rights may offer increased access to mechanisms that control the state's security agencies – by expanding the role of parliamentary institutions and liberalizing the media's access to the military, for instance. Democratization that follows military defeats – an expression of a broken contract – exemplifies this trend. Allocating social rights to serving groups is another option, and one that – as Andreski (1954) demonstrated – characterized post-war social reforms.

However, while this strategy may have characterized European state formation and the militarization of American society, it is less effective in Western societies in the post-Cold War era. Given that the legitimation crisis surrounding the draft, and the associated casualty sensitivity, involved mainly middle-class groups who already enjoyed considerable access to political and social rights, the state had almost nothing to offer them in this regard. An alternative option, then, is to expand the scope of social participation in the military to include lower socio-economic groups, including immigrants. This expansion can be accompanied by the allocation of social rights, including citizenship. Such was the case with African-Americans

following the Second World War. To be sure, rights are allocated to the social networks that provide the soldiers for military service, not directly to the soldiers themselves. Furthermore, the acquisition of these rights does not come from direct, overt bargaining but rather from the political struggles justified by military service. As Krebs (2006) has shown, manpower policies, whether inclusionist or exclusionist, signal the extent to which the state trusts the minority group and may be willing to respond to its citizenship claims.

Nevertheless, in an attempt to attract the middle class, the state can legitimize sacrifice by increasing the monetary rewards directly allocated to servicepersons, a move that typifies the vocationalization experienced by Western armies since the 1970s, and the phasing-out of the republican-type draft (Levy 2007; Moskos 1977). In sum, this strategy enhances the right to protect by increasing its convertibility into other valuable rights, thereby matching it to the level at which the right to protection is executed. This strategy may fail if: (1) the level of the allocation of rights threatens to undermine the state's autonomy; (2) the state cannot implement this strategy because it has little to offer to already privileged groups; (3) the need to constantly adjust monetary compensation to the cyclical demands for skilled manpower in the labour market may raise the costs of the military above the level of the shrinking resources available.

Then, the third strategy tries to balance the right to protection with the value of the right to protect by reducing the cost of fulfilling the former, even if this entails reduced protection. In historical terms, this strategy typifies the approach of Western states from the 1970s to the 1990s. At first, states try to adopt an international strategy; that is, they attempt to deflect the costs of war onto foreign allies (Barnett 1992: 31–40), as the reliance on NATO exemplifies. In this case, states compromise their security interests by accommodating their partners' interests. If the international strategy fails, or is insufficient to overcome domestic constraints, states might instead reduce their military burden by de-escalating the military conflicts in which they are actually, or potentially, involved. Such an approach is evident in the mutual steps taken by all parties that led to the cooling down of the Cold War, or Israel's de-escalation in the 1980s and 1990s.

However, this strategy may result in less security being provided. Spending cuts during the 1990s, which downsized West European militaries, played a major role in the increased reliance on the US in campaigns outside of Europe, and even in contingencies for war within Europe (Hillen 2002: 33–6). More significant are casualty-averse policies, which strive to limit risk by avoiding missions that could result in military fatalities. Casualty aversion means that the state upgrades the value of soldiers' lives. This goal can be accomplished by improving armaments, despite the financial costs involved. However, a capital- and firepower-intensive military doctrine is often not well suited to combating the insurgencies that are typical of modern small wars. Accordingly, the likelihood of winning these wars is reduced (Caverley 2009/10). Paradoxically, when the state places a higher value on the lives of soldiers, it may actually relax its commitment to protecting its citizens, provided that protection is the intent behind the use of force. Military missions designed to protect national security

become subject to the limitations imposed by the primary need to protect soldiers. At the extreme, the state might favour the lives of its soldiers over those of its citizens, which is the inverse of the Hobbesian norms governing the state.

Israel in the 1990s and 2000s is a case in point. The Israeli government's hesitation during the Second Lebanon War (2006), and before the 2009 Gaza War, to launch widespread ground operations that might result in the deaths of hundreds of Israeli soldiers sparked criticism that the government considered the soldiers' lives more valuable than those of civilians, in this case the residents of the northern and southern borders who were exposed to rocket shelling from Hezbollah and Hamas militias, respectively. Much of this sensitivity was attributed to the activity of middle-class-based antiwar groups, which played a key role in prompting the government to withdraw the military from Lebanon in 2000 after 18 years of bloody presence there. So, the state provided less protection to civilians as a means of protecting its soldiers, mainly reservists and elite units, whose members came largely from the secular middle class. For this group, the right to protect had lost its value as a source of other rights and thus impaired their motivation to sacrifice (Levy 2010a).

However, if providing reduced security restricts the state's autonomy and contradicts its internal commitments, the fourth strategy might prove a viable alternative. Central to this strategy is shrinking the circles of military participation, redistributing the burden by diverting it from the middle class to the lower class. Unlike the second strategy, rights are not awarded to privileged groups as a way of encouraging them to bear the burden of military service. Unlike the third strategy, the level of security provided does not change. In some Western states, this strategy included restructuring steps such as: vocationalization, through phasing out the draft in favour of a volunteer professional army with its inevitably higher reliance on soldiers drawn from minorities, the lower socio-economic classes and women; using technology in place of human combatants; and privatizing military missions, with private companies replacing soldiers on risky ancillary missions.

Examining the fourth strategy we can conclude that democracies create a *trade-off between force and casualties*. The increasingly insistent domestic demand to limit casualties leads democracies to use excessive force by employing methods informed by the 'Revolution in Military Affairs' (RMA). RMA reduces the risk to which soldiers are exposed, at the expense of inflicting more losses on enemy noncombatants. The 'no body bag' policy that the US adopted during the 1990s, and that Britain and Israel have gradually emulated, meant that the lives of combatants were set against the lives of noncombatants by transferring the risk to enemy civilians. Democracies might prioritize internal concerns about the costs of war, tolerating the killing of noncombatants because to do otherwise could create strong challenges to the legitimacy of the war (Downes 2008). At the same time, however, over tolerance of excessive force violates democratic imperatives that demand respect for non-combatant immunity, and thus might cause the legitimacy of the war to be challenged from another direction. Israel's 2009 war in Gaza also exemplifies this tradeoff. A study showed that the ratio of casualties increased from 1:6 (one Israeli

soldier to six Palestinians) in the First Intifada (1987–1993, the Palestinian uprisings against Israel's rule) to 1:86 in the offensive of 2009. In other words, Israel systematically reduced its soldiers' risk, but at a greater cost to Gazan citizens (Levy 2010b). In sum, this fourth strategy redistributes the military burden by reducing the load on more powerful groups for whom the right to protect is less convertible into other valuable political and social rights.

These four strategies affect the republican contract by creating a match between the two sets of rights. Nonetheless, they also change the underpinnings of this contract and to some extent the structure of citizenship.

The 'death hierarchy' and the marketization of security

The four balancing strategies, outlined above, require the re-formulation of the 'death hierarchy'. Under the circumstances of the historical republican contract, the state took more frequent risks with the lives of soldiers drawn from privileged groups than from the lower classes, because it trusted the former more than the latter, and also compensated the privileged groups accordingly. In the era of republicanism-informed mass citizen armies, this unequal burden was translated into, and thereby compensated by, a privileged social position. However, when the contract is undermined, resulting in shortfalls for rewarding privileged groups, and when balancing strategy (1) (leveraging external threats) is ineffective, the state may favour the lives of soldiers drawn from privileged groups over those drawn from the lower classes, particularly when the former are more reluctant to sacrifice unconditionally. This has been the trend since the 1970s, and entails balancing strategies (2) (allocating rights to lower socio-economic groups) and (4) (redistributing the burden).

When reluctance to serve is overwhelming, the state may even favour the lives of its soldiers over those of its citizens and reduce the level of protection it offers, which is the inverse of the norms governing the state (balancing strategy (3)). However, when the state can no longer risk its citizens and must risk its soldiers again, it might resort to the use of excessive force. Concomitantly, the state may also reduce the rates of military participation through vocationalization, technologization and privatization. Consequently, the risk to which the soldiers are exposed is reduced at the expense of enemy civilians. These civilians are placed at the bottom of the death hierarchy (balancing strategy (4)). This fourth balancing strategy – redistributing the burden – is currently the most popular strategy in industrial democracies.

However, the reshaped 'death hierarchy' implies the weakening of both sets of rights – the right to protect and the right to protection. The decoupling of soldiering from citizenship leads to the gradual removal of the right to protect from the set of rights. By nature, this decoupling is paired with the market regulation of military service. The vocationalization of the armed forces, described by Moskos as the transition 'from institution to occupation' (Moskos 1977), transforms military service from an institution that is legitimated in terms of values and norms, to an occupation that is legitimated in terms of the marketplace, with

remuneration determined by the laws of supply and demand. Vocationalization has been increasingly entwined with contracting out the replacement of expensive soldiers with cheaper contractors.

It follows that the military profession has been commodified. Advocates of the republican conception of citizenship have criticized this trend on the grounds that 'to turn such service into a commodity – a job for pay – is to corrupt or degrade the sense of civic virtue that properly attends it' (Sandel 2003: 90). The term *spectatorial citizenship* has been coined to describe the assertion that good citizens do not need to be active, as the original republican contract prescribed, but can watch others doing the public's work on their behalf (Galston 2003). This approach to citizenship is typical of the impairment of republicanism and the empowerment of the liberal discourse of citizenship. Commodification, which combines privatization and vocationalization, impedes civilian control of the violent mechanisms employed by the state. Insofar as the republican concept of politics is based on the exchange of military obligations for civil rights, declining levels of military participation, resulting from falling conscription rates and diminished participation in warfare, imply a reduction in citizens' bargaining power vis-à-vis the state (Silver 2004). There is a natural progression from *spectatorial citizenship* to political apathy about the deployment of military forces through which the 'others' are affected (Bacevich 2007). Wars are more accepted by the general population who come to see them as 'spectator-sport warfare', conflicts that are watched without the active participation of the majority (McInnes 2002, following Mann 1987).

Moreover, when imbued with the symbols of civic duty, conscription may create political expectations that derive from the very nature of the military mission (such as ideological fulfilment and serving the nation). Therefore, dissenting views breed republican-style collective action, such as antiwar movements populated by veterans and draft dodgers. In contrast, commodified military service reduces such expectations, and the exchange between the state and social groups shifts to the level of employer (military) vis-à-vis employees (recruits). What is at stake is the ability of enlistees to support their families, not their ideological grievances. Soldiers' support for military missions is, then, often 'purchased' rather than politically mobilized. Marketing military service means relying on monetary incentives rather than reinforcing the political legitimacy of the war among potential enlistees and their social networks. Indeed, it would appear that very generous financial bonuses have played a key role in enabling the U.S. military to meet its recruitment quotas since 2006, and thus to implement the administration's decisions to send more troops to Iraq (see Korb and Duggan 2007). Instead of voice, contractual soldiers typically express their dissatisfaction with the mission through a 'contractual exit' from the ranks.

Consequently, as Vasquez (2005) has argued, the relatively low level of selectivity involved in conscription directly affects more powerful actors than does voluntary service. These actors can utilize their political power to constrain policy makers through collective action. Likewise, a broad distribution of the costs of war throughout society, as is the case with conscription, drives politicians to pursue casualty-averse policies, thus avoiding the political costs incurred by military

hostilities. With the shift to volunteer forces and the marketization of military service, these rules work in the opposite direction. Furthermore, contracting out missions to private security companies reduces public transparency, favours the executive branch over the legislature, and may empower private corporations to influence and even carry out policies deviating from agreed-upon national goals (Avant 2007: 458–9). 'The logic of the market could be extended to challenge the notion that armies should be run by the government', warned Sandel (2003: 92). It is therefore easier to deploy volunteer forces for disputed political goals.

Following on from the decoupling of soldiering from citizenship is citizens' surrender of their right to control the armed forces. To recap, civilian control ultimately means that the popular will governs military conduct. Now, when it comes to the military realm, citizens voluntarily withdraw from the political scene. The right to protect was first undermined when the ability to convert it into other rights declined. It was undermined again with the waning of the ability to translate it into the political right to control the use of violence.

No less importantly, policies based on casualty aversion that require risk-free wars may also undermine the right to protection. Assuming that the war is necessary for safeguarding citizens' right to protection, a failure to achieve the goals of the war may imperil this right. With the increasing mechanization of Western militaries since the First World War, their interaction with local populations has decreased. This lack of interaction has curtailed their ability to collect local information and win the population's trust, which has also affected their ability to defeat weaker insurgent organizations (Lyall and Wilson 2009).

Against this background, in 2007 American commanders in Iraq came to acknowledge that violence against civilians had embittered Iraqis and incited the insurgency. They therefore revised the doctrine of force protection by reducing aggression at the cost of exposing more soldiers to risk (Smith 2008). A similar lesson could have been applied to the case of Israel's offensive in Gaza in 2009, but was not – as demonstrated by the increasing ratio of casualties noted earlier. Concerns about minimizing the risk of alienating the local population were disregarded by those who planned the operation. Such lack of concern seems short-sighted given that the Israelis will have to live alongside the Palestinians. Relations between the two will be a critical component of Israel's security. In contrast, the U.S.-led coalition forces will ultimately go back home, far from Afghanistan and Iraq (Levy 2009).

It follows that with the undermining of the right to protect, and the declining social readiness to sacrifice that this entails, the right to protection has been undermined as well. Casualty aversion that requires risk-free wars may also undermine the ability to achieve the goals of war. Thus, further reframing of the original interstices between citizenship and security is at work by decoupling citizenship from soldiering, devaluing the sacrificial meaning of soldiering, and then reducing citizens' access to security. It follows that democracies pursue options beyond the confines of the republican contract, outside the scope of the underlying balance between rights. One option they have selected is to reduce the risks to

soldiers by abandoning the liberal-democratic imperative to respect non-combatant immunity. In this way, enemy civilians who are not part of the original republican equation become a factor in its balancing. Another option is to remove the complicated right to protect from the realm of citizenship by commodifying military service. In so doing, the implication is that protecting the community is not a right deserving of other rights.

Conclusions

This chapter has examined the relationship between two major rights – the right to protect and the right to protection. The chapter has demonstrated that the balance between the extent to which the two rights are promoted, brought about by the creation of the republican contract, is at the core of the way the security/citizenship interstice has been evolving in the modern world.

The exchange between unequal military burden and unequal access to rights may fill gaps identified in Margaret Levi's (1997) 'contingent consent', in itself an effort to tackle the tensions implicit in the Hobbesian argument. In other words, the right to protection is conditioned by the fulfilment of the right to protect, as an avenue to other valuable rights. But while in the Hobbesian ideal the right to protection is equally accessible to all members of society, the right to protect is not. Access to that right is circumscribed by creating social hierarchies built around the scale of military contribution. Ironically, it is this inequality that is the key to providing protection, by compensating those who shoulder the majority of the military burden. Failure to maintain the right to protect undermines the republican contract and thereby jeopardizes the right to protection. The focus on the rewards for sacrifice helps to identify the mechanisms that create a sense of fairness, which Levi highlighted. True, perceptions about both the fairness of inequitable burdens and rewards are subjective, but rewards add a more tangible sense of fairness.

As Figure 12.1 demonstrates, several balancing strategies are at the state's disposal for balancing these two rights. These strategies involve either enhancing each

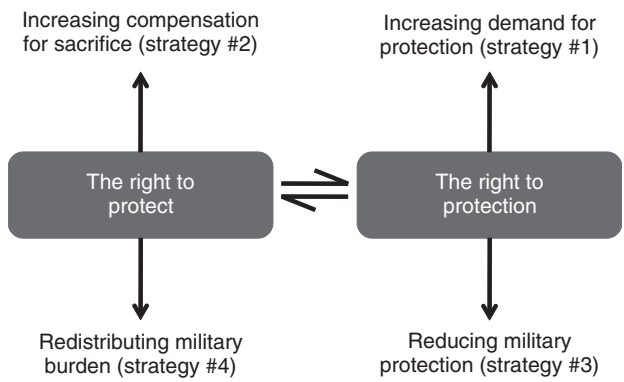

FIGURE 12.1 Balancing the rights

of the rights or reducing them. The right to protect can be improved when the state increases compensation (balancing strategy (2)), or diminished when military participation declines by redistributing the burden of war (balancing strategy (4)). The right to protection can be improved either in the mind of the public, or in reality, when the state finds ways to increase the demand for protection (balancing strategy (1)), or weakened as part of the move that reduces the military burden at the expense of providing security (balancing strategy (3)).

As this chapter has shown, security and citizenship are mutually affected: citizens' right to protection is manifested in the readiness of citizens to protect the lives of others. While the duty to protect one's country should not be taken for granted, the focus of this study is on the interstices between security and citizenship as sites where providing security to citizens is politically contested, because it requires citizens to sacrifice their lives. Citizens' right to protection is politically negotiated by determining who the protectors are (by including or excluding various groups in/from the armed forces), the extent of the protection (in terms of sacrifice and risk), and the rights that are accrued by the protectors in exchange for their sacrifice.

While the republican contract is at the core of the way the security/citizenship interstice has evolved in the modern world, the rebalancing of this contract that has taken place, especially in the post-Cold War era, has consequences for this interstice. Placing security beyond politics through securitization (balancing strategy (1)) has caused citizens to forfeit the political right to participate in the public debate that influences decisions on security issues. Thus, securitization weakens citizens' rights, and does not necessarily provide more security. At the same time, providing security is largely determined by the right to protect as an avenue to other rights. Thus, in balancing strategy (2), citizenship rights are granted to compensate or encourage potential protectors. Just as securitization can lead to the forfeiting of certain rights, so too can the bargaining power of the middle class be weakened by redistributing the military burden. In the extreme scenario, when the reservoir of rights accrued by converting the right to protect into other rights is drying up, the state commodifies the right to protection and thus removes it from the republican contract. Citizens are gradually removed from sites of sacrifice but, at the same time, may be less protected in casualty-free wars (balancing strategy (4)). As the reframed death hierarchy shows, security is not necessarily distributed equally when this proves too costly (balancing strategy (3)). By using these terms and analysing these strategies, we can gain greater insight into issues of both citizenship and security.

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13

MUSLIMS' INTEGRATION IN SWITZERLAND

Securitizing citizenship, weakening democracy?

Matteo Gianni

It is widely argued that, although an example of the successful accommodation of territorialized ethno-linguistic minorities, the Swiss political system is underpinned by a very restrictive philosophy of integration of foreigners and non-territorialized minorities, based as it is on an ethnic and assimilative conception of citizenship (Koopmans *et al.* 2005; Kriesi 1999). This might explain why Muslims are represented as difficult to integrate in Swiss society. Indeed, during the last decade, this group has been publicly constructed as a threat to the stability of Swiss multiculturalism and democracy, with Islamic practices and values seen as subverting the deep Swiss commitment to democracy. Can Swiss contextual specificities make sense of the lack of Muslim integration, a lack well illustrated by the ban on minarets, voted for by Swiss citizens in November 2009?

In this chapter I suggest that although a historical reluctance to incorporate immigrants informs many contemporary controversies about the integration of Muslims, another factor can also be put forward. Thus, the assimilative strategy of Muslim integration can be understood as being driven by the logics of symbolic and political securitization. I argue that these logics concern two distinct but interrelated aspects: first, the securitization of the formal public space through an apolitical conception of citizenship; second, the securitization of the Swiss conception of democratic values through a formal and symbolic pressure for Muslims to adjust to them. The two securitization processes, although not explicitly articulated in terms of security, point to the same semantic and performative direction, namely the construction and representation of a Muslim 'problem' which must be overcome in order to protect democratic values and practices. According to Jocelyne Cesari, the process of securitizing Islam and Muslims 'involves actors who propose that Islam is an existential threat to [. . .] political and secular norms, and thereby justify extraordinary measures against it' (Cesari 2010: 9). The social perception of a Muslim threat results from representations of Muslims which performatively participate

in their construction as *figures of otherness*. In contrast to the original ethno-linguistic minorities constituting Swiss multiculturalism or other historical immigrant groups, Muslims are not represented as part of Swiss *diversity*, but as aiming at the expression of a *difference* that could ultimately threaten the stability of Swiss society and democracy.[1] In this light, securitization can be seen as a systemic attempt to avoid the transformation of diversity into difference or, rather, as a way to compel a (supposed) difference to become part of a (much more manageable) diversity.

The Swiss case is very relevant to an analysis of the impact of securitization on citizenship and democratic dynamics. On the one hand, through the results of popular votes, it is possible to empirically assess the impact of securitization discourses both on the political behaviour of citizens and on the way targeted groups are actually affected by democratic decisions.[2] On the other, the characteristics of the Swiss political system allow an understanding not only of the impact of securitization on the targeted groups, but also of its broader implications for citizenship and democracy. Based very much on direct democracy and public deliberation, the intrinsically democratic quality of the Swiss system is very dependent on the actual and symbolic potential of citizenship to organize and determine the contents of the political will. In this light, a process of securitization (and hence, as I will argue later, de-politicization) of citizenship would not only have an effect on targeted groups but also, and I would argue mainly, on the overall values and practices inherent in the broader public philosophy of Swiss democracy. More particularly, understood through the perspective of securitization, the politicization of the Muslim 'problem' raises new and particular issues which fundamentally call into question (a) citizenship as a symbolic and material resource enabling subjects to integrate into Swiss society and (b) the democratic legitimacy of Swiss integration policy, that is, a conception of citizenship and integration as a mere *adaptation* (or normalization) to common norms. I argue that such an attempt precludes the opportunity to think about citizenship and integration as an inter-subjective *process* of negotiation of the principles and values of common belonging, and therefore is incompatible with a democratic conception of integration.

What is interesting to note, however, is that in the Swiss case the pressure on Muslims to assimilate in the name of securitizing democratic values has a peculiar political dimension that is part of the symbolic and normative grammar on which the Swiss democratic system is built. Thus, contrary to what is traditionally supposed to be a securitization process (Buzan *et al.* 1998), in Switzerland the protection of security is not fostered through the exclusion of the Muslim issue from the political sphere, or the creation of exceptional measures, but mainly through political means that ultimately lead to a de-politicization of citizenship and the restriction of citizenship rights. In this light, securitization can be seen as a political technique to manage power relations in a specific social and political context, and not necessarily as a response to an actual threat (Kaya 2010: 7; Huysmans 2000; Doty 2000). Indeed, I argue that what is interesting about the Swiss case is that, because of its historical, social and political peculiarities, the ways the system attempts to manage a perceived security (cultural) threat have an impact not only on the targeted

group, but also on the subjectivity and agency of the individuals of the in-group and, more generally, on the broader understandings of democratic integration and citizenship. The securitization of Muslims through integration-as-adaptation can be better assessed by considering some of the basic shared principles on which Swiss democracy is built. These include, for example, a commitment to compromise, to a strong conception of democracy, and to the idea that values are not *external* to politics, but the product of political participation and deliberation.

In the first part of the chapter, I present some key contextual aspects regarding Muslims' presence in Switzerland. I then highlight the main empirical features of securitization towards Muslims in the Swiss polity. I finally sketch an outline normative assessment of the impact of such a process on citizenship and democracy.

The social and political construction of the Muslim presence in Switzerland

Muslims have recently become the second largest religious group in Switzerland. Muslim immigration is a quite recent phenomenon and the Muslim population has increased almost 20-fold between 1970 and 2000 (from about 16,000 to 315,000), to almost 5 per cent of the total population. Although the presence of the first generation of immigrants was considered temporary – because of their *guest worker* status – Muslims are now permanently settled in Switzerland. They come mainly from three geographic locations (Turkey, the Balkans and North Africa) and therefore represent a very heterogeneous population.

This empirical heterogeneity is in stark contrast to the social representations pervading the Swiss public space. These construct Muslims as an essentialized subject, driven by religious loyalty, radicalism, and an inability to accept democratic rules and values (as seen, for example, in the incompatibility between the Muslim faith and acceptance of equality for men and women). Recent empirical research has shown, however, that while some Muslims support assimilationist policies, others oppose them. While some seek better accommodation of Islam, others share the secularist perspective of most Swiss non-Muslim citizens; some define themselves as Muslims because of their cultural origin, others do so strictly because of their religious faith; and while the majority of Muslims support the right to build minarets in Switzerland, more than 20 per cent of them think they should be banned (see Gianni, Giugni and Michel forthcoming).

Politically, moreover, the heterogeneity of the Muslim population means that it is very weakly organized both at the Swiss federal level and at the cantonal one (with some exceptions – in Geneva and Zurich, for instance). With the exception of a few national organizations and some strong local associations, Muslims lack political resources, both formally and informally. Formally, for instance, there are very few Muslim representatives in local assemblies and none in the federal parliament. Informally, Muslim leaders do not have clear and sustained relations, besides personal contacts, with those institutional actors (political parties, public authorities, etc.) which might allow them to press their claims. Muslim leaders' ability

to influence decisions is almost nonexistent. Moreover, Swiss federalism makes cantons responsible for determining legal and political relations with religious communities. As a result, there are significant differences in the way cantonal authorities deal with the Muslim population, making it even more difficult for them to build a politically efficient organization at the federal level. It is also important to stress that, contrary to other European countries (France or Britain, for instance), the Muslim population of Switzerland is principally comprised of foreigners. According to the last census, only about 36,500 out of 315,000 Muslims (15 per cent) are Swiss citizens. As a result, the overall majority of Muslims do not enjoy the political rights of participation at the local, cantonal and federal levels.

Interestingly enough, Muslims' lack of political resources is conversely related to their social visibility. Their presence has gained higher public visibility during the last decade. On the one hand, some issues which have seen Muslims in opposition to local authorities (such as the wearing of headscarves, Muslim cemeteries, slaughtering procedures, holidays, mixed sport activities at school, and so on) have created the perception of a 'Muslim problem', which has become an important feature of the Swiss political debate.[3] On the other hand, the 'Muslim issue' has been increasingly thematized and politicized by actors of the cultural majority (in particular the right-wing and populist Swiss People's Party, SPP), making the 'integration of foreigners' one of the most, if not the most, important issues of concern for Swiss citizens. The mobilization of right-wing parties has led to the construction of Islam and Muslims as a national problem. Although the right-wing SPP is certainly the actor that has provided the strongest opposition to the Muslim presence in Switzerland, all the main political actors have expressed, formally or informally, the need to put strict limits on Muslim leaders' explicit claims for recognition and, likewise, on those implicit claims, found in the willingness of some Muslims to adhere to Islamic practices.

In a sense, this trend is part of the process of securitization of Islam and Muslims that has been occurring in Switzerland for a decade. To give an example, in 2004 the national campaign on easing the naturalization process for third generation foreigners, rejected by 60 per cent of voters, transformed itself into a referendum on Muslims' presence and integration. The discourse of the SPP, the only party clearly against the initiative, focused almost exclusively on Muslim immigrants, symbolically transforming a vote on the integration of foreigners into a vote on the integration of Muslims. In May 2007, the same party launched the now globally (in)famous popular initiative 'against the minarets'. The initiative aimed at forbidding the building of minarets in Switzerland; it was framed as respecting the right of Muslims to practise their religion, but at the same time providing a clear message about, and formal stop to, what the SPP termed the *Islamization* of Swiss public space. In November 2009, 57.5 per cent of Swiss voters accepted the ban. The public debate created by, and around, this initiative has strongly contributed to the idea that Muslims are a 'problem' in Switzerland, and that public institutions must put a clear limit on the expression, and social and political visibility, of their cultural and religious values and practices.

During this debate, the idea that Muslim and Swiss 'cultures' are simply too distant (and therefore too different) to be able to co-exist in the same political and social spaces did not appear to be limited to populist right-wing discourse, but to have a widespread echo in the media and in public policies (Gianettoni and Roux 2010). In a sense, the SPP's recurrent thematization of the 'problem' of Muslim integration shows how social fears can be fabricated by political actors, resulting in the construction of cultural and religious difference as an object of security and legitimizing prospective action. This corroborates the idea that securitization can be seen as a political technique to manage power relations in a specific social and political context, and not necessarily as the response to an actual threat (Kaya 2010: 7; Huysmans 2000; Doty 2000). Therefore, and contrary to the assertions of the Copenhagen School, what emerges from an analysis of the Swiss case is that securitization does not necessarily entail the de-politicization of the security object in order to place it in the realm of the exceptional. In a society deeply organized around the centrality of the political (namely, direct democracy), securitization can entail the politicization of minority subjects in order to reduce and normalize their (potential or supposed) subversive political power or agency. In this light, the politicization of an object in order to transform it into a political threat does not necessarily lead to a *de*securitization, but rather to an attempt to de-politicize the object in order to make it fit within given (and unquestioned) norms, procedures and values. Such a securitization process affects not only the targeted group, but also the more general model of citizenship of a given polity. Thus, in the Swiss case, the securitization of Muslims has an impact on citizenship.

Against Muslim values and practices: from the securitization of migration to the securitization of citizenship

During the last decade, and following a multiculturalism backlash (Vertovec and Wessendorf 2011) it has frequently been argued that, in order to avoid a collision between ways of life (Sniderman and Hagendoorn 2007), the time has come to put strict limits on the toleration and/or recognition of cultural practices deemed at odds with democratic liberal values (Parekh 2008; Barry 2001; Sartori 2002). According to this perspective, 'multicultural countries have become "too diverse", and the presence of communities adhering to values at odds with those of "Western" secular society threaten cohesion' (Grillo 2007: 979). In Europe, as in Switzerland, Muslims have become the main target of discourses justifying a retreat from multiculturalism and hence the return of assimilation as a device to manage deeply diverse societies.[4] Hence, the contemporary political debate is very much structured around the idea of compelling immigrants to adapt and adjust to local democratic norms, pressure that can be considered as intrinsically assimilative (Gianni 2009). It is generally admitted that the 'term integration implies the idea of a process of give and take on both sides [and] the term assimilation suggests that the immigrants must do the adjusting' (Klausen 2005: 10). What distinguishes integration from assimilation is the inter-subjective dimension inherent in integration, with its

opposition to the unidirectional alien adjustment to immigration societies' norms. The assimilative aspect relies, therefore, on the assumption that there are *non-negotiable* social and political values that must be protected. As argued by Bryan Turner, 'assimilation [. . .] is based on the assumption that difference is harmful and should be abandoned in the process of integration into the host society' (2007: 76).

It is plausible to conceive the assimilative shift from integration to integration-as-adjustment as part of a securitization process. This expresses a process of securitization of migration which has been increasingly structured by narratives constructing Islam in terms of fear, distrust and hostility (Bousetta and Jacobs 2006: 32; Commission Fédérale contre le Racisme 2006). Content analysis of the media discourse produced in French-speaking Switzerland between 2004 and 2007, as well as the public discourse during the campaign for the ban on minarets in 2009, provide some empirical evidence for this (Gianni and Clavien 2012). Globally, Islam and Muslims are portrayed as possessing given and fixed cultural-religious attributes, as being deeply opposed to the ethos of democracy and gender equality and, indeed, as posing a problem for democracy. Among the many reasons evoked to justify fears about Muslims' social and political presence, the most recurrent and structuring one is based on the incompatibility of Western democratic norms and Islamic values or practices. As in other European countries (Poole 2002; Poole and Richardson 2006; Deltombe 2005; Parekh 2008), Islam is often presented in Switzerland as incompatible with democratic norms and practices; as justifying violence (or terrorism); and as fostering a collectivist conception of society, based on a naturalized conception of women's identity which causes them to occupy subaltern social, economic and political conditions.

These discourses nourish social representations which contribute to a negative symbolic and political characterization of the Muslim population. More specifically, such discourses play a role in the construction of the 'generalized Muslim' as possessing given and fixed cultural-religious attributes (van den Brink 2007: 352). These generalized images entail an essentialized and naturalized construction of Muslims' perceived lack of social, political and cultural capabilities to integrate in democratic countries. Moreover, the emergence of a discourse of the 'enemy within' resonates with contemporary Western orientalist thinking about Islam as a discourse of essentialist difference, reproducing the boundaries between the Western and the Islamic worlds (Kaya 2010: 5–7; Razak 2008).

These social representations take place in social and political contexts marked by a specific (public) philosophy of integration (Favell 1998). The one currently prevailing in Switzerland is grounded on implicit communitarian premises with regard to territorialized (that is, linguistic) minorities, but follows a strict liberal-individualistic view where non-territorialized (for example, religious) minorities are concerned. With regard to the latter, this means that references to *vertical* (or political) forms of integration – for instance, public recognition of the cultural differences of foreigners, the engagement of the state in the promotion of multiculturalism, or the self-definition of Switzerland as an immigration country[5] – are absent from the goals of integration policy. Moreover, and according to the Swiss authorities,

the most important factor leading to social and cultural integration is the *individual willingness* of foreigners to integrate.[6] In this context, social representations depicting a *collective (Muslim) Other* – claiming recognition or expressing the will to preserve its radical difference (as was perceived in the construction of minarets) – is the equivalent of a threat that must be thwarted. Presumably this is because such claims equate to a challenge to the attitudes and dispositions foreign *individuals* should display in order to be integrated in Swiss society and to be seen as loyal to its values and norms. In other words, Muslims' practices are constructed as potential threats to the Swiss polity's internal security and political stability.[7] This securitization move thus parallels the requirement for Muslims to adjust their practices to general democratic rules.

The construction of Muslims as an object of security that must be normalized in order to protect the values and practices inherent in the Swiss philosophy of integration impacts on the broader framework of citizenship, thereby also affecting members of the in-group. According to securitization theory, the securitization process de-politicizes an object, locating it outside the political. The process, therefore, impacts mainly on the object of securitization. In the case under scrutiny here, however, the inherent logic of the process is quite different. The social and political construction of the Muslim threat[8] enforces a hegemonic logic according to which an adjustment to given norms is required in order to accept/integrate Muslims. Therefore, as the chain of signifiers that traditionally contribute to the construction of Muslim diversity as otherness (the terrorist threats, the incompatibility between Islamic values and democratic norms, the constitutive gender inequality inherent in Muslim practices, and so on), the signified inherent to the logic of adjustment participate to the securitization process by entailing that all deviation from, or contestation of, Swiss norms will be taken as a form of disloyalty towards Swiss democratic values.

Therefore Muslims are not only supposed to adapt to, but also to endorse and demonstrate loyalty to, Swiss democratic values. This translates into a willingness to amend those practices represented by some as incompatible with Swiss democratic values; examples include wearing headscarves, building minarets, reserving swimming pools for Muslim women, or maintaining a too high visibility in the public debate. For instance, during the 2009 campaign, Muslims' readiness to build minarets was portrayed by opinion leaders as a way of politically and publicly affirming the presence and visibility of Islam in Switzerland. This attitude – so the argument ran – did not reflect the desire to decorate a mosque with an architectural device, but rather the intention to foster a radical and political conception of Islam. Because a minaret is mostly an architectural device and not an Islamic prescription, support for the ban was presented not as undermining the constitutional religious freedom of Muslims but, rather, as a clear warning to radicals about the unacceptability of political Islam in Switzerland.

It is plausible to think that such pressure to endorse Swiss democratic values ultimately nourishes the dichotomy between 'bad' and 'good' Muslims; in turn, this plays a part in structuring the internal social and political representations among members

of the ethno-religious group (Mamdani 2004: 14; Cesari 2010: 14). The recent public policy of issuing 'contracts of integration' contributes to this logic. Foreigners are asked to contractually accept some duties, namely to adapt to, and accept, Swiss democratic values and rules, and to show their willingness to integrate (by learning a national language, achieving financial autonomy, avoiding committing crimes[9] or public offences, and so on). While the duties of immigrants are clearly established, the reciprocal duties of the host society are much more vaguely expressed, contrary to Swiss law which stipulates that 'integration presupposes on the one hand that foreigners are willing to integrate, and, on the other that the Swiss population shows openness to them' (Swiss Federal Assembly, Federal Law on Foreigners, art. 4, al. 3, my translation). In fact, in the contract of integration the reciprocity towards immigrants seems to be solely based on the chance to live in Switzerland, and the concomitant access to social and civil resources. In a sense, the structure of opportunities offered to Muslims can be summarized by the slogan often articulated by the populist right parties: 'Switzerland? Love it [and adapt yourself] or leave it!'

What is particularly interesting about this slogan is that it captures the peculiarity of the securitization process inherent in integration-as-adaptation and its implications for citizenship. In fact, its underlying logic rests on a dichotomy between citizens and foreigners that plays a fundamental role in structuring the Swiss conception of sovereignty and political community. On the one hand, there is the figure of the foreigner, who can go home and live according to his own cultural values; on the other, the figure of the national-citizen, who endorses and defines Swiss values and practice and is therefore, by definition, culturally and politically integrated. What is missing in this picture is the in-between figure, a figure protected from expulsion by her citizenship rights, who is politically integrated in the polity via her citizenship status but who expresses religious or cultural differences with regard to dominant norms and values. Some Swiss Muslims are citizens; some are not. Some Muslims might want to become citizens, and to compel them to normalize their subjectivity as a way to securitize democracy ultimately leads, I argue, to a securitization of citizenship which, in turn, calls into question the legitimacy of Swiss democracy.

The (un)democratic implications of securitizing citizenship

The securitization of citizenship raises an important question about the political efficacy and normative legitimacy of the dominant logic of integration in Switzerland, and points to the loss of the transformative power inherent in citizenship.[10] It is generally agreed that social and individual identities are shaped by dialogical processes which ineluctably create figures of otherness. This is also the case with citizenship, for as a symbolic construct it is marked by the same sociological processes (Young 1990; Connolly 1991). In particular, cultural values and attributes embedded in regimes of citizenship constitute the symbolic standard determining who is part of a political community and who is not, who should be and who should not, how one has to behave as a citizen and how one should behave in order to become a citizen.

Accordingly, citizenship itself, instead of being a neutral principle of commonality or simply a formal status based on rights and duties, is a category that inherently creates differences (Young 1989). Citizenship defines under which conditions Others can be recognized as full members of the polity. The standards for recognition are not only provided by the formal attributes of citizenship, they also result from the cultural and symbolic construction of what it means to be a citizen in a given polity (see Alejandro 1993: 2). Individuals who do not fit within the symbolic borders of citizenship and (common) identity (Joppke 2007) can be constructed as possessing an 'excess of alterity' (Sartori 2002) and being 'too diverse' to be incorporated into Western societies (Grillo 2007: 980). At the same time, citizenship – as more than a simple status – is the (only) place where conflicting or alternative conceptions of the self can be expressed, negotiated, and therefore recognized as important to the self-definition of citizens. Given its (potential) power to subvert hierarchies of oppression in the name of inclusivity, there is also an important emancipatory aspect in the idea of common citizenship. There is, therefore, an immanent tension between, on the one hand, citizenship as a process establishing cultural boundaries and forms of otherness and, on the other, citizenship as an encompassing locus where inter-subjective recognition and integration of alternative representations of the social and political community can take place and where specific crystallizations of otherness can be subverted.

These theoretical elements allow us to assess some of the normative implications inherent in the public philosophy of citizenship, and integration-as-adjustment, for Swiss democratic values and practice. The Swiss conception of integration is inherently assimilationist and therefore calls into question both the exercise of some individual freedoms, and some forms of equality of opportunity (enjoying a fair chance of employment while wearing a headscarf, for example). It also precludes not only the ability to figure out a conception of citizenship and integration as an inter-subjective *process* of negotiation and/or reinterpretation of dominant conceptions of the self but also, via such a process, the specific content of democratic principles and practices which are at the core of a shared understanding of common belonging. It is precisely the opportunity to participate in this process of *re-negotiation* and *reinterpretation* of the symbolic web of significations of citizenship that is missing when integration-as-adjustment is the primary technique of governing cultural differences. It lacks the *processual* dynamic that is necessary for revising or reinterpreting the meaning and modalities of the implementation of common democratic norms. It is, therefore, *integration-as-process* that aims at building post-conventional identities based on an inter-subjective recognition of all actors concerned. Muslims in Switzerland have very few opportunities or political resources to enter into such a process. For instance, almost nothing has been done to allow leaders of the Muslim community to participate in decision-making processes related to their own claims. Very few Muslim associations have obtained any form of state recognition as associations of general interest and, what is more, very few procedures of conflict resolution have been implemented once pragmatic forms of accommodation have failed and debates have become public and highly emotional (Gianni 2009).

In order to have a transformative impact on hierarchies of power, integration should be empirically and normatively grounded on a *processual* conception of recognition. According to James Tully:

> struggles over recognition, like struggles over distribution, are not amenable to definitive solutions beyond further democratic disagreement, dispute, negotiation, amendment, implementation, review [. . .]. Recognition in theory and practice should not be seen as a *telos* or end state, but as a partial, provisional, mutual, and human-all-too-human part of continuous processes of democratic activity in which citizens struggle to change their rules of mutual recognition as they change themselves.
>
> *(Tully 2000: 477)*

Tully's conception of dynamic and processual recognition radically calls into question the assumption that liberal, difference-blind approaches to politics, *as well as* forms of formal or institutional recognition of difference, can permanently stabilize or overcome all identity conflicts and dynamics. Institutions are unable to permanently fix the fluidity of the identity/difference process, to hamper its changeability and therefore to prevent the social construction of new types of otherness (see Honig 1993: 567). Failing to consider such social dynamics entails the perpetuation of forms of structural injustice, which in turn affects the practical potential inherent in citizenship to subvert crystallized hierarchies of power (Fraser 2005; Young 2007). The *de facto* requirement to adapt to given values and practices strongly normalizes one's activity as a citizen. The injunction to conform to dominant norms expresses a *defensive* conception of citizenship; this conception codes as *offensive* – as a symbolic threat – claims and practices that do not easily fit within it. Moreover, the requirement to adapt can be seen, following Jonath Inda, as an anti-citizenship technology, namely,

> one that seeks to shape human conduct and achieve specific ends not through the empowerment of individuals but through their incapacitation and containment. Put otherwise, it is a technology bent on disempowerment: on the abjection (that is, casting out) and exclusion of particularly troublesome individuals and populations.
>
> *(Inda 2006: 127)*

Therefore, integration-as-adjustment not only creates a dichotomy between 'good' and 'bad' citizens, it also entails a progressive de-politicization of citizenship as a category of practice. The continuous affirmation that democratic values and practices are given and that foreigners/Others must adapt to them in order to be considered as integrated in the polity means that, instead of being democratically and deliberatively legitimated (or eventually modified) by the participation of all actors involved, those values and practices are considered as being almost *pre*-political (or *external* to the political) and should, therefore, *neither be the object nor the result* of an inclusive democratic deliberation. Instead of being the *locus* of

a political definition of common values, citizenship is fixed and constrained by a hegemonic discourse stipulating the meanings, and the forms of implementation, of democratic values and practices. Therefore, what results from the securitization of citizenship is that political deliberation basically becomes a mechanical reaffirmation of the pre-political values. This is inconsistent with the idea that the legitimacy of citizenship relies on citizens being able to freely determine (that also means, in liberal-democratic terms, to revise) the terms of their social and political belonging, and therefore the values underlying it.

With regard to Muslims in Switzerland, such a de-politicization of citizenship and of integration, alongside the securitization process, calls into question the democratic legitimacy of the integration policy. The relevance of the negative figure of the 'generalized Muslim' places a burden on the opportunity for actual Muslims to be socially recognized as actors and to fully integrate in democratic societies. In such a context, any claim that might be articulated by Muslims about the need to reinterpret the content, or the scope of application, of some civil laws in order to provide better ways of accommodating their religious or cultural practices, is seen as implying a lack of loyalty to Swiss society and, hence, as a lack of will to integrate. Paradoxically, therefore, what can be taken as a sign of integration – namely, the fact that individuals feel sufficiently recognized to participate in public debates and to express dissent toward some public decisions – is transformed into the opposite, that is, a sign of disloyalty or of lack of integration. Indeed, it must be emphasized that almost all the controversial issues setting Muslims and the Swiss public authorities in opposition do not call into question the intrinsic validity of Swiss democratic values, rather their contextual *interpretation* and the modalities of their actualization in legal and political acts or decisions (see Kymlicka 2000: 148). This distinction is crucial (and almost always understated in the public debate on Muslims), for there is a huge difference between contesting a democratic fundamental principle and claiming for a possible reinterpretation of its legal or political scope and modality of application. Thus, one of the most normatively problematic implications of securitization is that it pressures Muslims to endorse a historically specific and contextual understanding of democratic values and practices, a framework considered by members of the cultural majority as non-negotiable and intrinsically superior to alternative actualizations of democratic principles. This belief is grounded on the implicit assumption that there is only one way to implement fundamental democratic principles, and that a claim for re-negotiating these modalities demonstrates a lack of concern for, or willingness to abide by, democratic values. For instance, when some Muslims call into question the 1864 law of the Canton and Republic of Geneva – which stipulates that everyone must be buried in public cemeteries without reference to their religious background – they are not attempting to reinterpret, almost 150 years later, the social legitimacy of a law adopted in a specific political and historical context, but rather to promote their differentialism and to contest a democratic, although historically outdated, decision. Therefore, a critique about how and why democratic values have been historically implemented is broadly represented as a threat that political institutions and civil society must securitize.

Conclusion

In sum, securitization entails a logic of integration-as-adaptation according to which loyal and integrated Muslims are expected to *a-critically* adapt to (Swiss) democratic values and practices. Integration becomes an *a-political adjustment* to (Swiss) contextually specific and therefore particularistic democratic values and practices.[11] Such 'integration' is thus straightforward assimilation, and misses the point of democratic integration. As stated by Wendy Brown, 'depoliticization involves construing inequality, subordination, marginalization, and social conflict, which all require political analysis and political solutions, as personal and individual, on the one hand, or as natural, religious, or cultural on the other' (2006: 15). In this light, the depoliticization of citizenship leads to a situation where the political dynamic does not involve an exchange of reasons between the cultural majority and cultural minorities about the terms of new common principles, but merely a discussion among the cultural majority about what to do with regard to the minority.[12] The majority requires minorities to be loyal to democratic institutions which are not freely and subjectively endorsed, but rather politically enforced. The case of the constitutional ban of minarets, voted for by a majority of Swiss citizens, perfectly illustrates this trend.

The securitization of migration and citizenship is, in the end, a securitization of cultural difference and leads to a conception of integration-as-adjustment which entails the weakening of democracy as a medium to promote forms of common understanding. Instead of being a locus where *voice* and dissent can create and express loyalty, securitized democracy enforces a political *exit* and silence that weakens democracy, while claiming to protect it. In sociological terms, the lack of recognition of cultural difference can have profound political implications, particularly with regards to social and political stability; it can contribute to the radicalization of immigrant communities, causing them to reinforce their opposition to the majority rather than becoming willingly involved in the inter-subjective process of determining the content of common belonging.

Notes

1 In Switzerland, as in other countries, 'diversity is good; difference – interpreted as diversity institutionally embodied through multiculturalism – definitively bad' (Grillo 2007: 987).
2 Recent research has demonstrated that direct democracy plays an important role in discrimination against cultural and religious minorities in the law (see Vatter 2011).
3 As in other European countries, this trend has become particularly salient after the events of 11 September 2001. For the EU context, see European Monitoring Centre on Racism and Xenophobia (2006); for the situation in Switzerland, see Commission Fédérale contre le Racisme (2006).
4 This trend exists in almost all the EU countries where there is a significant presence of Muslim immigrants. See, for instance, Modood *et al.* (2006) and Parekh (2008). On the 'return of assimilation' in public policies and its analytical and normative plausibility – namely, the distinction between the transitive (morally problematic) and intransitive (morally acceptable) use of assimilation – see Brubaker (2001).

5 Despite the fact that more than 20 per cent of residents are foreigners.
6 Foreigners must have '*la volonté de s'intégrer*' (Département Fédéral de Justice et Police, Office des Migrations (2002) available from <http://www.esbk.admin.ch/content/ejpd/fr/home/dokumentation/mi/2002/2002–03–08.html> (accessed 12 May 2012).
7 For instance, a report by the Swiss Federal Government, published in 2004, states that 'even if the potential constitution of terrorist networks in Islamic centres is for now an exception, there is nonetheless an important long term risk of seeing a certain number of claims politicized (for instance wearing a veil at school or the rejection of class mixed-sex education) and, therefore, in conflict with our society's basic norms and our western way of life' (*Rapport sur l'Extrémisme*, 2004: 4735, my translation <http://www.admin.ch/ch/f/ff/2004/4693.pdf> (accessed 12 May 2012).
8 Of course, public actors usually preface their observations about Muslims by noting that the vast majority *are not* radical and that – *like* the Swiss – they want to live in peace and democratically.
9 In 2006, the SPP launched a popular initiative stipulating that foreigners who commit crimes will be expelled from the country. The initiative was accepted by Swiss citizens in November 2010. The content of this initiative, accepted just one year after the vote on the ban of minarets, clearly perpetuates the securitization process toward foreigners.
10 On the need to transform power relations in order to reach a (just) parity of participation in democratic societies, see Fraser (2005).
11 I leave aside here the question of determining whether Swiss democratic particularism is morally sound and normatively legitimate.
12 I completely agree with Phillips (1995: 13) that 'when policies are worked out *for* rather than *with* a politically excluded constituency, they are unlikely to engage with all relevant concerns'. As Galeotti (1993: 597) rightly asserts 'if a social difference is denied public visibility and legitimacy in the polity, the group associated with it inevitably bears social stigmata'. Moreover, in some cases, a refusal to recognize the social existence of a group can be more threatening for the democratic order than forms of social and political recognition (Maclure 2003).

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