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# The Dawn of Cosmopolitan Denizenship

ARISTIDE R. ZOLBERG\*

A major conclusion of Linda Bosniak's careful review of contemporary trends and arguments is that, while citizenship as we know it is still firmly anchored in the nation-State, this is no longer the whole story.<sup>1</sup> Acknowledging that it is imprudent to exaggerate the extent to which specific regional developments such as the emergence of a quasi-European citizenship deviate from the mold, since the European status is conditional upon discrete national membership, Bosniak insists that it is also misguided to willfully ignore an array of contemporary developments moving the realities of citizenship beyond the traditional conception. Something worth paying attention to is definitely going on, but what, precisely, does it amount to?

While largely agreeing with Bosniak's overall stance and most of the particulars of her analysis, I believe that more can be done to "denaturalize" the citizenship and nation-State linkage by examining its historical matrix and considering to what extent the conditions that spawned it have changed in the intervening period. Of course, a change in conditions does not of itself warrant relinquishing an important institution; but a consideration of the altered context is likely to elucidate the institution's limitations and hence contribute to a more informed consideration of possible modifications and alternatives.

What I bluntly term "the hypernationalist version of citizenship" is a relatively recent institution, formed largely in response to tensions induced by distinct, but interactive, processes around the turn of the twentieth century.

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1. Linda Bosniak, *Citizenship Denationalized*, 7 *IND. J. GLOBAL LEGAL STUD.* 447 (2000).

These processes included, on the one hand, escalating international politico-economic rivalries and, on the other hand, a vast expansion of international migrations from poor to rich countries. Initially originating in a handful of leading countries, hypernationalist citizenship quickly spread among their epigones. Ironically, it is still taking hold *de novo* in some parts of the world today, notably new States arising out of decolonization and the dismantling of empires, even as it is becoming relativized among the countries where it arose in the first place.

In retrospect, one can only wonder at the strangeness of a historical trajectory whereby most of the population of the world's richest and most powerful countries, encompassing tens and eventually hundreds of millions of individuals, came to believe that they constituted mutually exclusive "natural" communities sharing a hallowed ancestry and destined in the divine scheme of things to share a common fate. Fostered to some extent by the greater development of social communications within, as opposed to across, international borders in the course of modernization, these beliefs were deliberately stimulated in the latter part of the nineteenth century by elaborate public policies specifically designed to promote national distinctiveness and solidarity.<sup>1</sup> Among them, undoubtedly the most widespread and effective, was the elaboration by State-serving intellectuals of national histories, following (more or less explicitly) the model set forth for France by Ernest Renan, and the incorporation of the beliefs into each State's system of mass elementary education, along with the teaching of the country's official language.

The internalization of such nationalized cultures provided the underpinnings for widespread acceptance of a conceptualization of citizenship grounded in a global system of mutually exclusive State jurisdictions and concomitant national loyalties. The formalization of citizenship was itself rendered more urgent during this period by incipient democratization (which entailed its extension to the male populace as a whole), and by the expansion of the infrastructural power of the State (which entailed the regulation of individual comportment in hitherto ignored spheres of social existence). Although the expansion of citizenship had taken place much earlier in the two revolutionary nation-States, France and the United States, the incorporation of hitherto excluded groups and the mobilization of the masses required formalization there as well.

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1. KARL W. DEUTSCH, NATIONALISM AND SOCIAL COMMUNICATION: AN INQUIRY INTO THE FOUNDATIONS OF NATIONALITY (2d ed. 1966).

The institutionalization of citizenship in this form was a major aspect of “nationalization of rights,” which Hannah Arendt identified as a key element in the development of totalitarianism. Writing in the wake of the horrors of World War II, she emphasized the secular drift, as a concomitant of the formation of nation-States, of the traditional Western doctrine of human rights toward that of nationally guaranteed rights. Implied in the dynamics of the Westphalian international system of States from the very outset was the idea “that only nationals could be citizens, only people of the same national origin could enjoy the full 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.”<sup>2</sup> Although Rogers Brubaker subsequently distinguished between States that adhere to an “ethnic” conception of nationality, reflected in adherence to *jus sanguinis*, as against a “civic” conception, expressed in *jus soli* (using Germany and France as respective archetypes), Arendt’s formulation remains generally applicable: even the German “ethnic” State provided for the possibility of naturalization, whereas within the French “civic” State, an effective distinction arose between the population that was “ancestrally” French and other French citizens.<sup>3</sup> Even in the United States, concern over the “new immigration” in the late nineteenth century led to the introduction of a distinction within the census between native-born of “native” parentage and native-born of “foreign” parentage. As Arendt rightly emphasizes, where the possibility of citizenship was extended to nonnationals, it required a profound personal transformation on their part, well expressed by the term “naturalization.”

Paradoxically, the concerted efforts of States to sharpen the institutional delineation of national boundaries were prompted by proliferating transgressions, as the spreading “great transformation” uprooted rural populations numbering in the hundreds of millions throughout the European periphery and many parts of Asia, while the revolutionary impact of the railroad and the steamship brought relatively inexpensive long-distance transportation within reach of a very large share of humanity. Even as States eagerly took advantage of the cheap foreign labor the new international configuration rendered available, most of the world’s leading countries sought to prevent the undesirable poor from gaining access to membership in the receiving community and the bundle of collective goods it afforded.<sup>4</sup> In some

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2. HANNAH ARENDT, *THE ORIGINS OF TOTALITARIANISM* 275 (1973).

3. ROGERS BRUBAKER, *CITIZENSHIP AND NATIONHOOD IN FRANCE AND GERMANY* (1992).

4. For an elaboration of these points, see Aristide R. Zolberg, *Global Movements, Global*

cases, the workers in question were categorically excluded from citizenship, as was the case, for example, with the Chinese imported into the United States from 1850 to 1882. Elsewhere, the exclusion took the form of “guestworker” programs and, in some cases (notably Britain in 1905), the solution was to impose draconian limits on immigration altogether. In the wake of World War I and the Russian revolution, the latter approach of severe limitations on immigration was generalized. Viewed in the present perspective, adoption by the United States in the 1920s of a quota system based on national origins to allocate drastically reduced entries can be seen as an effort to restore American nationality to the *status quo ante*—a blend of mostly Protestant northwest European groups. Along with potential migrants, ordinary travelers were also subjected to a proliferation of controls on movement that vastly enhanced the significance of the national foundations of citizenship and brought it to the awareness of anyone who might have occasion to venture even casually to another country.<sup>5</sup> The harnessing of the inherent challenge immigration posed to the institutionalization of the hypernationalist version of citizenship was facilitated from the 1920s onward by the emergence, in a number of the source countries, of political and economic formations that required these States to severely restrict exit. These included not only the “totalitarian” regimes of Europe, but also the production-oriented colonies under European control.

In addition, in the sphere of international law, “theoretically[,] sovereignty is nowhere more absolute than in matters of ‘emigration, naturalization, nationality and expulsion.’”<sup>6</sup> Although Arendt was writing with reference to Europe, it is important to note that the observation is also applicable to the United States, where since the beginning of the twentieth century, the sphere of immigration has been exceptionally State-centric. As Peter Schuck has pointed out:

Probably no other area of American law has been so radically insulated and divergent from those fundamental norms of constitutional right, administrative procedure, and judicial role that animate the rest of our legal system. In a legal

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*Walls: Responses to Migration, 1885-1925*, in GLOBAL HISTORY AND MIGRATIONS 279 (Wang Gungwu ed., 1997).

5. See JOHN TORPEY, *THE INVENTION OF THE PASSPORT: SURVEILLANCE, CITIZENSHIP, AND THE STATE* (1999).

6. ARENDT, *supra* note 3, at 278 (internal citation omitted).

firmament transformed by revolutions in due process and equal protection doctrine and by a new conception of judicial role, immigration law remains the realm in which government authority is at the zenith, and individual entitlement is at the nadir.<sup>7</sup>

Concurrently, national citizenship emerged as a pivotal element of the awesome social contract fostered by the Westphalian system of States. In an anarchic world, the sovereign provides not only Hobbesian security within, but also security against preying Behemoths and Leviathans without; and in counterpart, those under its jurisdiction have the obligation “to submit to being placed in harm’s way when the state chooses.”<sup>8</sup> Albeit clearly visible from a consideration of political development in Europe and the United States, the rooting of national citizenship in the dynamics of the international system of States was ignored by T.H. Marshall, perhaps because of his insular and exclusively sociological orientation, and neglected by most recent writers on the subject as well. In short, the transformation of subjects into citizens was universally coupled with the imposition of some form of military obligation upon them—with both citizenship and military obligation being restricted to males.<sup>9</sup> In the United States, for example, even before the revolution, militias became “the hallmarks of full citizenship in the community.”<sup>10</sup>

Responding to the double dynamic noted, the nationalist conception of citizenship was firmly established on both sides of the Atlantic by the 1920s. It was subsequently reinforced by the further consolidation of international boundaries induced by economic protectionism during the Great Depression, the strategic rivalries of the second phase of the twentieth-century’s, thirty-year long world war (encompassing both WWI and WWII), and the East-West confrontation that followed (the Cold War). Enhanced by bureaucratic and judicial practices, the national conception of citizenship achieved at least the residual hegemony, in the absence of challenges, which it still retains today.

At the dawn of the twenty-first century, it is evident that the two processes that contributed to the hypertrophy of the nationalist element of citizenship have undergone major alterations. Most dramatically, the securitarian social contract that was a central feature of the political

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7. Peter H. Schuck, *The Transformation of Immigration Law*, 84 COLUM. L. REV. 1 (1984).

8. Linda Kerber, *The Meanings of Citizenship*, 84 J. AM. HIST. 835-36 (1997).

9. MARGARET LEVI, CONSENT, DISSENT, AND PATRIOTISM 80-106 (1997).

10. *Id.* at 59 (quoting JOHN SHY, A PEOPLE NUMEROUS AND ARMED 29 (1976)).

organization of modern States has been steadily minimized on both sides of the Atlantic. Although Linda Kerber insists that the military obligation element of U.S. citizenship remains real, despite the advent of the all-volunteer army in 1975, and warns that “when we consider the meanings of citizenship we ignore it at our peril,” it is difficult to imagine circumstances under which the contract would be effectively reinstated.<sup>11</sup> As the importance of this element of citizenship was diminished, States became less insistent on exclusive membership and adopted a more permissive stance toward multiple affiliations. As Bosniak points out, while the proliferation of persons holding multiple citizenship does not amount to “denationalization,” it does entail a significant departure from the traditional nationalist construction.

The situation with regard to international movement is more ambiguous. One of the most important developments of recent decades is access to freedom of exit by populations hitherto politically confined. This awesome transformation, involving hundreds of millions of individuals worldwide, began with the decolonization of Asia and Africa in the post-World War II decades, when most of the emerging new States relinquished the prohibitions on exit imposed by their colonial rulers on mercantilist grounds. A second phase was inaugurated with the collapse of European communism in the late 1980s. At the same time, the regions in question were integrated into the global economy, forcing large numbers to relocate in search of work. Although most of the resulting migrations took place within countries, the international component grew as well. During the decades of the post-war economic boom, the rich countries eagerly availed themselves of the additional supply of labor from peripheral regions, including former colonies; but, when the boom collapsed in the 1970s, most reacted in a protectionist manner. Subsequently, the Europeans generally adopted a sharply restrictive and effectively enforced stance toward the entry of nationals from poorer countries, whereas the United States and the overseas “white dominions” maintained policies that provided for a significant level of legal immigration. Today, the United States appears to be moving toward a proliferation of “guestworker” programs at various levels of skill and, in effect, it also allows a steady stream of illegal entries. Many individuals in these categories ultimately gain access to permanent residence. From the 1960s to the 1990s, there was also an increase in the number of international refugees, most of whom ended up permanently resettling in foreign countries.<sup>12</sup>

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11. Kerber, *supra* note 8, at 836.

12. For up-to-date overviews, see GLOBAL MIGRANTS, GLOBAL REFUGEES: PROBLEMS AND

A carefully constructed statistical overview of the 1965-96 period reveals that over these three decades worldwide migration grew at about the same rate as population. In 1965, a little over 2 percent of residents in all countries were foreign-born; this was the case as well at the end of the period.<sup>13</sup> However, the proportion of foreign-born individuals in developed countries grew from 3.1 to 4.5 percent. The most dramatic change took place in Western Europe, where the proportion climbed from 3.6 percent to 6.1 percent, representing a relative increase of nearly 70 percent for the period as a whole. When this quantitative change is combined with a shift in the immigrants' countries of origin, from largely Western Europe to a more mixed combination that includes predominantly the eastern and southern Mediterranean rim, it amounts to a major social transformation. North America, over the same period, grew from 6 to 8.6 percent, a substantial, but much less dramatic increase; in the United States, this increase involved a shift in source countries from North America (Mexico and Canada) and Europe to Latin America (Mexico, Central and South America), the Caribbean, and Asia.

Despite profound initial variations in the extent to which immigrants and their descendants had access to citizenship of the receiving countries, over time there has been a general convergence toward full incorporation. Accordingly, most of the receivers now have (or will soon acquire) an unprecedented proportion of citizens who are of nonnational origin. Although the proportion in the United States is well below the record level of the early part of the twentieth century, it is higher than it has been since the end of World War II. In combination with the more permissive stance toward multiple membership noted earlier, and the maintenance of effective ties with countries of origin (rendered possible by the revolution in communication and transportation), this development has effectively diluted the nationalist core of conventional citizenship. While at the formal level citizenship remains linked with the nation-State, subjectively and in practice it has become, for many, a more contingent and circumscribed affiliation, leaving room for other significant forms of membership.

Finally, while it is literally correct to argue that in the absence of institutions of governance, the proliferation of elements of international civil society does not amount to the emergence of "postnational citizenship," there is no denying that these elements have come into being as a result of a spreading awareness

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SOLUTIONS (Aristide R. Zolberg & Peter Benda eds., forthcoming 2000).

13. Hania Zlotnik, *International Migration 1965-96: An Overview*, 24 POPULATION AND DEV. REV. 429 (1998).



among many national citizens of their concurrent membership in a single global species, and that in turn the visibility of these elements in the world at large has a feedback effect on the growth of cosmopolitanism. Paralleling the development of national consciousness in an earlier era, this emerging realization is fostered in part by processes of social communication, which are now increasingly global in scope. A contributing factor to this realization is the vast expansion of international travel for business and pleasure, which now constitutes one of the leading worldwide industries (ironically, even while erecting barriers to immigration, most countries are very eager to minimize barriers to such movements), and the reduction of obstacles in turn fosters the domestication of international travel. Beyond this, segments of the public are also motivated by the practical understanding that some of the most serious threats to human survival cannot be dealt with by a single State acting alone, but require global cooperation.

Altogether, these developments make for a profound disparity between the residual hard-edged national conception of citizenship and a growing, albeit diffuse, sense of cosmopolitan membership. However, the diffuse character of the latter makes it no less real; in retrospect, there was a time when *national* membership was equally diffuse—as in Shakespeare’s England, or revolutionary France, or in Nigeria today. In effect, more nationals see the globe as a second home and believe that this involves both certain rights and certain obligations. For the tough-minded, “citizenship” at that level cannot be achieved in the absence of global political institutions. But something else can, and it is beginning to be. In many traditions, strangers who were useful long-term residents of a community acquired the status of “denizens,” which conferred upon them many rights except that of political participation. That is perhaps where we find ourselves today—at the dawn of “cosmopolitan denizenship.”