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## **The significance of borders : why representative government and the rule of law require Nation States**

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## CHAPTER EIGHT

### THE FALLACIES OF UNIVERSALISM

#### 8.1. *NO MORE WAR*

Three fallacies accompany the assault on borders. I call them the fallacies of universalism. They return time and again at defences of supranational or multicultural projects. The first is, that the First and Second World Wars have taught us that 'nationalism' is inherently war bound, and that supranational – universalist – projects, such as the EU, are the answer to that inherently bellicose nature of man, dangerously surfacing through national democracies, which must therefore be curtailed.

The second is, that the universal society, based solely on abstract principles of justice that all people could agree with, could be an actuality. At least since the Enlightenment, this idea has been fashionable among liberal philosophers, and those adhering to it have thenceforth dreamed of superseding the particularities of different cultures and of installing a world government that would make such arbitrary national arrangements obsolete.

The third fallacy is the idea of the all-inclusiveness (or, which amounts to the same thing, the non-exclusiveness) of political loyalties, suggesting that it is entirely unproblematic to hold several passports; to feel loyal to several different states; and to have, generally, no particular attachment to any particular nation, but rather to subgroups or even virtual communities, that may transgress borders, as in the philosophy of multiculturalism.

Serving as arguments to legitimize the assault on borders, these fallacies of universalism are being brought forward regularly by advocates of supranationalism or multiculturalism. This chapter attempts to show why they are in fact fallacies, commencing with the first: that nationalism is inherently war bound.

To be sure, one of the leading themes of the second half of the 20th century was '*Nie wieder Krieg*': never again the loss of lives and the destruction that the First and the Second World Wars had brought about. It was widely felt that nationalism had been one of the primary causes of these wars, and this makes it hardly surprising that European intellectuals have taken a sceptical approach towards national sovereignty. The nation state seemed to produce nationalism, which had, in turn, produced war, destruction, and the holocaust. The German philosopher Karl Jaspers wrote in 1951 that it was the task of the 'great' German nation to 'negate' nationality. Apparently oblivious to the obvious contradiction, he contended that 'the history of the German nation state has come to an end.

As a great nation we can do but one thing for us and the world: to make people realize that today the idea of the nation state spells disaster for Europe and all the other continents.' He concluded:

The idea of the nation state is today a destructive force in the world of mighty proportions. We may begin to lay bare its roots and effect its negation.<sup>1</sup>

His perspective was widely shared by European elites, and still is until this day. The former French president François Mitterrand received a great applause, for instance, when he announced in 1995 that 'le nationalisme, c'est la guerre!'<sup>2</sup> Ten years later, in 2005, Tony Blair warned the European Parliament that if Europe would cease its expansion and stick with the members that shared some cultural inheritance (by for instance excluding Turkey), it would 'become more narrow, more introspective', and what would await Europe was 'outdated nationalism and xenophobia'.<sup>3</sup>

'Nationalism was identified as the problem', concludes the British journalist Douglas Murray, 'and as the nation was responsible for nationalism, it was obviously the cause of the problem.'<sup>4</sup> It was precisely from this perspective, that the former President of the European Parliament (1994-1997), the German Klaus Hänsch,<sup>5</sup> said: 'Never again must a state be so sovereign that it can decide between weal and woe, between war and peace.'<sup>6</sup> This is a clear attack on the idea of sovereignty itself, of course, and as such illustrative of the supranational idea – which does not aim at creating a new sovereign entity, but, as I have explained, at negating the concept of sovereignty altogether.

At the time of the 60th anniversary of the end of World War II, EU Commissioner Margot Wallström tried to persuade the people to vote for the European constitutional treaty, arguing that 'politicians who resisted pooling national sovereignty risked a return to Nazi horrors of the 1930s and 1940s'.<sup>7</sup> In her speech, not coincidentally organized at the site of the former concentration camp Theresienstadt (Terezin) in the Czech Republic, she blamed the Second World War on

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<sup>1</sup> Jaspers (1969) 53: 'Die Geschichte des deutschen Nationalstaats ist zu Ende, nicht die Geschichte der Deutschen. Was wir als grosse Nation uns und der Welt leisten können, ist die Einsicht in die Weltsituation heute: dass der Nationalstaatsgedanke heute das Unheil Europas und nun auch aller Kontinente ist. Während der Nationalstaatsgedanke die heute übermächtige zerstörende Kraft der Erde ist, können wir beginnen, ihn in der Wurzel zu durchschauen und aufzuheben.'

<sup>2</sup> François Mitterrand, *Speech of 17 January 1995* at the European Parliament, available online at <http://www.lours.org/default.asp?pid=375>.

<sup>3</sup> Tony Blair, *Speech of 23 June 2005*, published on [http://news.bbc.co.uk/1/hi/uk\\_politics/4122288.stm](http://news.bbc.co.uk/1/hi/uk_politics/4122288.stm).

<sup>4</sup> Douglas Murray, *Neoconservatism: why we need it* (London: Social Affairs Unit, 2005) 178.

<sup>5</sup> Klaus Hänsch presided the European Parliament from 1994 till 1997.

<sup>6</sup> *Frankfurter Allgemeine Zeitung*, 16 October 1995, as quoted in Laughland (1997) 77.

<sup>7</sup> 'Vote for EU Constitution or risk new Holocaust, says Brussels', *Daily Telegraph*, 9 May 2005.

nationalistic pride and greed, and (...) international rivalry for wealth and power.

According to Wallström, the EU had replaced such rivalry with an historic agreement to share national sovereignty.<sup>8</sup>

Two years later, in 2007, when the EU was celebrating its 50th birthday, the motto was: 'The EU: 50 years of peace', indeed suggesting that there was a causal connection between the two. In his speech to the University of Washington (Seattle), deputy spokesperson for the European Commission to the United States, Mattias Sundholm, remembered that 'some 65 years ago, the world was in flames (...) Europeans fought each other, and in the rest of the world people were starving and millions of people died'.

What a contrast with the summer of 2006, Sundholm contended, when Germany was hosting the World Soccer Championship. He was struck by people coming 'from all over Europe, with the common currency – the Euro – in their pockets, travelling there without passports – because those are not needed in a Europe without borders – and waving their own respective national flags – and this without violence or holding grudge against each other'. Coming to his conclusion, Sundholm said:

Now, how did all this happen, and in only some 50 years? Well, to a large extent it is thanks to an economist from Cognac in France, Robert Schuman (...).<sup>9</sup> [never mind that it was the brandy salesman Jean Monnet who came from Cognac, while Schuman, the economist, was an Alsatian]

Imaginatively as it may be presented (although one may doubt the lack of 'grudge' to be found in football supporters) the question of congruence with reality is pressing. How true is all this? What is really the connection between the Second World War and nationalism? And to what extent can the EU – and other supranational projects – be credited for whatever 'lasting peace' may have come about since 1945?

<sup>8</sup> *Ibidem.*

<sup>9</sup> 'Let me start off by briefly sharing two pictures with you: Some 65 years ago, the world was in flames, to a large extent because of and orchestrated from Nazi-Germany and Berlin. Europeans fought each other, and in the rest of the world people were starving and millions of people died. And this was not the first time the very same European countries were fighting each other; some of them had been in war at least 3 times in the last 75 years. Please keep this picture in your heads for a second. Last summer, the very same country – Germany – and its capital – Berlin – hosted the World Soccer Championships. People came from all over Europe, with the common currency – the Euro – in their pockets, travelling there without passports – because those are not needed in a Europe without borders – and waving their own respective national flags – and this without violence or holding grudge against each other. Now, how did all this happen, and in only some 50 years? Well, to a large extent it is thanks to an economist from Cognac in France, Robert Schuman, who later became French foreign minister and who said that "Europe will not be made all at once, or according to a single plan. It will be built through concrete achievements which first create a *de facto* solidarity." Available online at <http://www.eurunion.org/eu/2007-Speeches-and-Press-Conferences-/THE-EUROPEAN-UNION-CELEBRATING-50-YEARS-OF-PEACE-PROSPERITY-AND-PARTNERSHIP.html>.

Was Nazism even a form of nationalism? Though generally contended, this view is not entirely undisputed either. One historian who has questioned the all too quick identification of Nazism with nationalism is the renowned Oxford historian and Special Operations veteran of the Second World War, Hugh Seton-Watson. In his classic account on *Nations and States*, Seton-Watson analyzed that ‘it may be argued that Hitler was himself a nationalist, resolved to perfect the union of all Germans which had been left incomplete in 1870.’<sup>10</sup> Hitler succeeded in

annexing the great majority of ‘unredeemed’ Germans in 1938 without war (Austria and the Bohemian borderlands of Czechoslovakia), but he was unable to annex the million and a half Germans of Poland and the city of Danzig without going to war with the Poles, and this let loose a European war which in turn became a world war.

Giving further credit to this ‘standard’ view of history, Seton-Watson continues that it can well be argued, that ‘a series of conflicts, concerned with the status of unsatisfied nations (Croats and Slovaks) or of divided nations (Hungarians in Czechoslovakia, Yugoslavia and Romania; Bulgarians in Yugoslavia, Romania and Greece), created in Central Europe an atmosphere of mutual hatred between states which caused each in turn to succumb either to the blandishments or to the aggression of Hitler.’<sup>11</sup> Seton-Watson concludes that ‘Thus, nationalism played an important part.’ He nevertheless goes on to say that:

It is equally clear that Hitler’s aims were not limited to anything which, even if the phrase be stretched to the utmost, can be described as German nationalism. His aim was to conquer all Europe and a good deal more besides. Mussolini aimed to create a new Roman empire in the Mediterranean, the Japanese a Greater East Asia Co-Prosperity Sphere embracing hundreds of millions who were not Japanese.<sup>12</sup>

Seton-Watson thus emphasizes the important distinction between *nationalism* on the one hand, and *imperialism* on the other. Though the latter may follow from the former, they are not identical phenomena.

In his polemical work *The tainted source*, John Laughland goes further, and analyzes the eurofederalist tendencies inherent in Fascism and Nazism itself. ‘It is false’, he writes, ‘to say that the ideology of European unification (...) post-dates the Second World War, or even that it was only ever conceived in opposition to its worst excesses. On the contrary, not only the Nazis, but fascists and collaborators from many European countries, made very widespread use of

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<sup>10</sup> Seton-Watson (1977) 467-469.

<sup>11</sup> Seton-Watson (1977) 468.

<sup>12</sup> Seton-Watson (1977) 469.

European ideology'.<sup>13</sup> Joseph Goebbels, for instance, asserted in a speech entitled 'Das Europa der Zukunft', that

European peoples are realizing more and more clearly that many of the issues between us are mere family quarrels compared to the great problems that today require to be solved as between continents.<sup>14</sup>

(...)

I am convinced that in fifty years people will no longer think in terms of countries – many of today's problems will have faded into obscurity, and there will be little left of them.<sup>15</sup>

In a conversation with the Finnish foreign minister, R. Witting, held on November 28th, 1941, Adolf Hitler was recorded to have said that 'it was gradually becoming clear that the nations of Europe belonged together like a great family of nations. France, too, would come to realize this, and he hoped that England, too, would recognize this; it was to be hoped that it would not be too late. England had to realize that the only group of powers which had an interest in maintaining the British Empire was Europe and never America.'<sup>16</sup>

He [the Führer] did not belong to those who were ready to leave to circumstances a very difficult task with which they had been confronted. The task of bringing together the European family had to be performed now. With modern military technology small nations could no longer exist independently. In a time when 600 km could be covered by an airplane in an hour, a great territorial integration of nations was necessary.<sup>17</sup>

In a memorandum, probably written for the Nazi top-diplomat Cecil von Renthe-Fink, the NSDAP journalist and secretary Karl Mergele developed a number of guidelines on Europe, which included the observation that

The new order in Europe will largely remove the causes that have led to internal European wars in the past. The nations of Europe will no longer be one another's enemies. The age of European particularism will be gone for ever.<sup>18</sup>

The memo concluded that

The new Europe will be tolerant in matters of religion and personal philosophy. It will permit each and everyone.<sup>19</sup>

<sup>13</sup> Laughland (1998) 12.

<sup>14</sup> Goebbels, "'Das Europa der Zukunft": speech to Czech intellectual workers and journalists', 11 september 1940, reprinted in: Walter Lipgens (ed.), *Documents on the History of European Integration* (Berlin and New York: De Gruyter, 1985) 73. Discussed and analyzed by Laughland (1998) 25.

<sup>15</sup> *Ibidem*.

<sup>16</sup> Walter Hewel, 'record of conversation between Hitler and the Finnish foreign minister, R. Witting, 28 November 1941', in: Lipgens (1985) 94.

<sup>17</sup> *Ibidem*.

<sup>18</sup> Karl Mergele, 'European themes', probably autumn 1941, reprinted in Lipgens (1985) 95.

<sup>19</sup> *Ibidem*.

Von Ribbentrop, too, wrote in a note in 1943 that 'I am of the opinion that, as already proposed to the Führer in my previous minutes, we should at the earliest possible date, as soon as we have scored a significant military success, proclaim the European Confederation in quite a specific form.'<sup>20</sup>

Mussolini had already announced in 1933 that 'Europe may once again grasp the helm of world civilization if it can develop a modicum of political unity',<sup>21</sup> and several thinkers who were also charmed and fascinated by Fascist, corporatist or national socialist initiatives, such as Bertrand de Jouvenel and Pierre Drieu la Rochelle, supported a European federalist cause.<sup>22</sup>

Others have argued that these references to a United Europe were primarily a matter of propaganda.<sup>23</sup> Propaganda may certainly have played an important part in fascist and national-socialist references to a 'united', a 'peaceful' and a 'tolerant' Europe, but to regard it all as merely that is not an entirely satisfactory explanation. For not only were references to a united Europe often not made in public but rather in private conversations and memoranda, the enthusiasm was also generally shared among not only political leaders but also intellectual supporters.

Whatever is the case, however, the point here is not that what Nazi's and fascists had in mind with the future of Europe was necessarily the same as what Jean Monnet and his followers desired. The point is that it is certainly not self-evident that fascism and Nazism were 'nationalisms'. Their pan-European plans were much more *imperialisms* than strict nationalisms.

It may furthermore be emphasised, as Laughland quite rightly does, that racialism 'as a form of materialist determinism', of the pseudo-scientific kind expounded by Nazi-theorists such as Alfred Rosenberg,<sup>24</sup> 'is a non-national

<sup>20</sup> Ribbentrop, 'European Confederation', 21 March 1943, reprinted in Lipgens (1985) 122-123. Discussed and analyzed by Laughland (1998) 33.

<sup>21</sup> Benito Mussolini, 'Discorso pre lo stato corporativo', in: Eduardo and Duilio Susmel (eds.), *Opera omnia*, XXVI: *Dal Patto a Quattro all'inaugurazione della Provincia di Littoria* (Florence: La Fenice, 1958) 91, quoted in Laughland (1998) 47.

<sup>22</sup> Bertrand de Jouvenel authored a book in 1930 entitled *Vers les États Unis de l'Europe*; in the following years, he joined the Parti Populaire Français, an anti-parliamentary party led by Jacques Doriot, and partly funded by the Italian fascists. Pierre Drieu la Rochelle wrote an essay in 1928, entitled *Genève ou Moscou* (Paris: Gallimard, 1928), in which he advocated strong European cooperation, and he supported the collaboration with Germany from 1942 onwards. Cf. Daniel Knecht, 'Ni droite, ni gauche? Debatten over het Franse fascisme', in: *Tijdschrift voor Geschiedenis*, 124.3 (2011) 206-219. There was also considerable support among communist thinkers for the European idea; Altiero Spinelli is an example. Indeed, the very core idea of Jean Monnet – that cultural unity follows economic unity – is essentially Marxist.

<sup>23</sup> As is done for example by Christopher Booker and Richard North, in *The Great Deception. Can the European Union survive?* Second Edition (London and New York: Continuum, 2005) 22-40.

<sup>24</sup> Alfred Rosenberg, *Der mythus des 20. Jahrhunderts. Eine Wertung der Seelisch-geistigen Gestaltenkämpfe unserer Zeit* (München: Hoheneichen-Verlag, 1930).



concept'.<sup>25</sup> Indeed, 'race transcends the boundaries of the nation and of the state, and racist theory is thus, by definition, an international doctrine'.<sup>26</sup>

Nationalism in the sense that we have defined it in chapter 3 – as an imagined and territorial loyalty, to be distinguished from universal loyalties on the one hand, and tribal loyalties on the other – is in any case certainly not easily connected to some of the more obscure doctrines of Nazism, such as its emphasis on 'Aryan'-supremacy. As Tzvetan Todorov writes, for nationalism 'the notion of the stranger (...) says nothing about the physical characteristics of the designated individual'.<sup>27</sup> Indeed, from a nationalist point of view, strangers are simply those 'who are not citizens', Todorov recognizes.<sup>28</sup> Opposed to this is the viewpoint of the racist, as illustrated by how the Ku-Klux-Klan approaches African- or Jewish-Americans:

The racist (...) sees the man, not the citizen: the blacks or the jews in America partake in the same nation as the member of the Ku-Klux-Klan, but are not part of the same 'race'. We can change our nationality, not our race (the first notion is moral, the second physical).<sup>29</sup>

If we take that view, thus, Nazism was not even a nationalism. But even when taking the view that Nazism grew out of a pathological kind of nationalism associated in chapter 3 with national humiliations (as the German nation clearly had to face after the dictate of Versailles), it is clearly not easily understood as a defense of national sovereignty – but rather, as mentioned above, as imperialism. It seems safe to contend indeed, as does Seton-Watson, that 'Hitler's aims were not limited to anything which, even if the phrase be stretched to the utmost, can be described as German nationalism'.<sup>30</sup>

Apart from references to the Second World War, mention is often made of the First World War as an example of the atrocities committed in the name of nationalism. But again the German objective in the First World War was not only to defend or expand the German nation state, but also to establish a German imperial yoke on non-German parts of Western Europe.

As Seton-Watson notes, the First World War 'started by a conflict between Austria-Hungary and Serbia, which was directly caused by the unsatisfied movement of the South Slavs for national unity'.<sup>31</sup> Serbia had been recognized as an

<sup>25</sup> Laughland (1997) 15.

<sup>26</sup> *Ibidem*.

<sup>27</sup> Todorov (1989) 333: 'la notion d'étranger (...) ne dit rien des caractéristiques physiques de l'individu incriminé'.

<sup>28</sup> *Ibidem*: 'qui ne sont pas citoyens'.

<sup>29</sup> *Ibidem*: 'Le raciste, en revanche, voit l'homme, non le citoyen : les Noirs ou les juifs américains appartiennent à la même nation que le membre du Ku-Klux-Klan, mais non à la même « race ». On peut changer de nation, non de race (la première notion est morale, la seconde physique)'.

<sup>30</sup> Seton-Watson (1977) 468.

<sup>31</sup> *Ibidem*.

independent state at the Congress of Berlin of 1878, but a large proportion of the Serbian population remained under the Ottoman and the Habsburg empires.<sup>32</sup> The southern part of Serbia was won from the Ottomans at the first Balkan war of 1912-3, but attempts to reunite the Habsburg parts of Serbia – especially Bosnia – failed, motivating a group of ‘Young Bosnians’ to plan the assassination of archduke Franz Ferdinand upon his visit to Sarajevo in June 1914. This was carried out by Gravelo Princip on the 28th of that month.

But the Serbs were certainly not the only nationalities within the Habsburg empire to strive for more recognition or even independence. ‘Different national aspirations began to clash head on’, writes Oliver Zimmer.<sup>33</sup> The nationalisms in the Habsburg Monarchy, according to Seton-Watson, ‘had been largely provoked by the policy of the Hungarian government which sought to create a single Magyar nation out of several other nations by a policy dictated from above.’<sup>34</sup>

Again Zimmer:

Magyarisation – the cultural nationalism of the Magyar majority that dominated the state – was ‘motivated by a sense of cultural superiority’ on the part of the dominant group. Its impact was particularly marked in education, where the laws of 1879, 1883, 1891 and 1893 made Hungarian the official language in state and confessional schools. Another pillar of Magyarisation was electoral politics: Magyars took over 90 per cent of parliamentary seats, while Romanians, Slovaks and Serbs remained grossly under-represented. A law of 1898 determined that each town or village could have only one official (Magyar) name, to be approved by the Minister of the Interior. The tombstones of local cemeteries had to be engraved in Magyar.<sup>35</sup>

The different nationalities were widely considered to be problematic,<sup>36</sup> and ‘Hungary’s state-building nationalism caused considerable resentment among the economically and culturally less advanced ethnic minorities in the border areas.’<sup>37</sup>

Thus while it is undoubtedly true that nationalism has been important in the origins of the First World War, it seems equally true that ‘forcible repression of national aspirations has also been’<sup>38</sup> and indeed this has been one of the major lessons that many observers drew from the First World War. An example is

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<sup>32</sup> A. Sked, *The decline and fall of the Habsburg Empire, 1815-1918* (London: Pearson, 2001) esp. 216-222.

<sup>33</sup> Oliver Zimmer, *Nationalism in Europe, 1890-1940* (New York: Palgrave Macmillan, 2003) 56.

<sup>34</sup> Seton-Watson (1977) 468.

<sup>35</sup> Zimmer (2003) 56.

<sup>36</sup> Cf. E. Niederhausen, ‘The national question in Hungary’, in: Teich and Porter (eds.), *The national question in Europe in historical context* (Cambridge: Cambridge University Press, 1998) 248-269.

<sup>37</sup> Zimmer (2003) 59.

<sup>38</sup> Seton-Watson (1977) 469.

Woodrow Wilson, whose 'principle of self-determination' implies respect for the different nationalities rather than the desire for their dissolution.<sup>39</sup>

Going back further in history, moreover, it is clear that it was after the humiliation of 1870-1 that the pathological kind of nationalism emerged in France in which the Dreyfus affaire became possible; or that it was right after the march of the French *armée* underneath the Brandenburg gate in 1806, that Fichte called for the German nation to gather militarily, and that Herders ethnic nationalism grew to great popularity (as discussed in chapter 3). It is true that nationalism has been a potent force in modern political history: but it has only been responsible for war if it was confronted with an imperial (or supranational) power, or when it turned into imperialism itself, which, again, only seems to have happened after national humiliation (again, by other imperial or supranational powers).

Another question is to what extent the EU can be credited for a supposed lasting peace after 1945. It is widely claimed that this is the true novelty that European integration has brought. Although there can be no doubt that the First and Second World War were of unprecedented horror, it is not self-evident that the time before 1914 was equally insecure, violent and conflict bound. The contrast between pre-1914 and post-1945 is not as big as it is often presented.

After the battle of Waterloo and the Vienna Congress, Western Europe has experienced three serious armed conflicts in the 19th century: the Franco-Austrian war of 1859, the Prusso-Austrian war of 1866, and the Franco-Prussian war of 1870. There have been several wars with external parties, of course, such as the Balkan wars, the Russo-Turkish wars, the Crimean war, and several wars in the colonies; but external wars have also occurred regularly since 1945.

All three intra-European wars of the 19th century were, moreover, relatively limited in scale and losses. The Franco-Austrian war of 1859, which would amplify the Italian unification, lasted only a few months, and although bloody at times – the atrocities at the battle of Solferino even inspired Henri Dunant to found the International Red Cross – the number of casualties remained limited. The Prusso-Austrian war lasted even shorter: only seven weeks, between July and August 1866. The war took no more than a total of approximately 100 thousand casualties, and resulted in Prussian hegemony in the German lands as well as an enlargement of the territory of Italy at the cost of Austria. Thirdly, there was the Franco-Prussian war of 1870-1, which was the longest and most bloody conflict on European soil since the Napoleonic wars. It lasted about 8 months, and took an approximate total of 350 thousand casualties.

The casualties of these wars are lamentable, but international involvement remained limited and much of European life went untouched by it. For most

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<sup>39</sup> Cf. Henry William Brands, *Woodrow Wilson* (New York: Henry Holt and Company, 2003) esp. 80-81.

Europeans, then, the period between the end of the Napoleonic wars and the First World War had been a century of peace. While the three wars of the 19th century certainly infused nationalistic pride among the populations of the belligerents (although Napoleon III for instance was heavily criticized by his own people as well), the wars were initiated not by the people but by undemocratic rulers – Napoleon III, Bismarck – who sought, in the words of Seton-Watson, ‘to make their states dominant on the European continent’.<sup>40</sup>

The Napoleonic wars, which had followed almost immediately on the French Revolution and the downfall of the *ancien régime*, spanned almost twenty years and took several millions of casualties – from Western as well as Eastern European countries, from Russia and from northern Africa. Were these wars inspired by nationalism? Was it ‘nationalistic pride and greed, and (...) international rivalry for wealth and power’ that infused this horror?<sup>41</sup> Quite the contrary.

The Napoleonic wars were inspired not by some nationalist particularism, but by the universalist ideals of the Enlightenment and the dream to build a new *imperium romanum*. The Napoleonic wars were non-nationalistic, and precisely in that quality resided their limitless character. Napoleon aimed to bring the whole of Europe under his Enlightened empire (as has been discussed in chapter 5.3), an objective so unattainable that constant war was the result.

Preceding the revolutionary wars – that is to say, in the 18th century and before – few standing armies existed and a universal draft was unheard of. Wars were for that reason by definition limited in scale. The view was that glory could be obtained on the battlefield, and as territorial gain still formed a realistic perspective (since states were not national states, see part I), the general idea of war was not necessarily negative: indeed, warfare was the primary means for aristocrats to prove their honor, and glorifications of conduct on the battlefield form a major part of world literature. From Caesar’s *De bello gallico* to the Duke of Saint Simon’s descriptions of Louis XIV’s quest ‘pour la gloire’ and Napoleon’s memoir, lay two millennia of enthusiasm for the virtues of the battlefield and the importance of military might. Anyone visiting Paris or London or any other major European capital will be struck by the abundance of military monuments, statues of former army leaders, streetnames referring to military victories or fields of combat, and so on.

Moreover, because of premodern technological limitations, wars were incomparably less destructive in the 18th century and before, than after. Indeed, ‘war’ in the twentieth century is an entirely different thing from what it used to be in the past. Although of course it is true that destruction of villages and lives occurred on a tremendous scale during the religious wars of the 16th and

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<sup>40</sup> Seton-Watson (1977) 467.

<sup>41</sup> ‘Vote for EU Constitution or risk new Holocaust, says Brussels’, in: *Daily Telegraph*, 9 May 2005.

17th centuries: these were so problematic largely because they could hardly be called wars properly but rather civil wars. And it were precisely these wars that led to the birth of modern statehood in order to prevent them in the future (as discussed in chapter 1). Thus: to say that the EU should have coincided with a stop to some horrific historical continuity caused by 'nationalism' is to make a hollow claim; to say that the EU should have even *caused* this, is simply grotesque, and reminds of the more obscure forms of African shamanism in which rain is believed to result from hallucinating dances around a fire.

But there is yet more. For to emphasize constantly that the countries of the European Union have experienced half a century of peace is to miss out on one essential reality: that the countries of the European Union were for most of that time at war with the Soviet Union – the expression, itself, of a 'post-national' philosophy *par excellence*: communism. The fact that members of the European Union have not engaged in a war against each other, then, since the end of the Second World War, is a bit like being surprised that members of the same soccer team did not commit violations against one another. The countries of the European Union were major allies in a deadly and global nuclear conflict; *of course* they would not bother to fight amongst themselves! Nor was it the European Union that provided an adequate response in this war; it was the NATO alliance and the presence of formidable American weaponry on every bordering country in Europe (brought about, as I have explained, without supranational powers, see Part II, *Introduction*).

Nor should we attribute the deterring power of nuclear bombs to the European Union, or to a fading of 'nationalism'. The fact is that with the invention of the atomic bomb, full-scale wars between countries have become impossible. This is not only the case for the atomic bomb specifically, but also for the whole of modern warfare as first deployed in the First World War.<sup>42</sup> The scale of destruction brought about through modern warfare is unbearable – and since modern architecture has declared it impossible to rebuild destructed houses and city-centers but has consistently replaced them with the most horrific building-blocks in Novosibirsk-style, it is clear that no one is prepared to pay the price of war anymore.

And it is connected with all these considerations that Germany has, after so much destruction, settled – at least for the time being – for its present borders and gave up its envy of Alsace-Lorraine. This may also be due to the fact that since the Second World War, population growth has stagnated in Europe and

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<sup>42</sup> This is also one of the reasons why the First World War took such an incredible number of casualties. The generals were unfamiliar with the new reality of the battlefield and combat strategies did not take into account, for instance, that one machine gun can cover an entire valley (such as the Somme).

therefore, there is absolutely no economic possibility to have a massive war anymore either.

In short, the claim that nationalism inherently leads to war, and that the EU has caused lasting peace is untrue for five reasons. Number one, the contrast between pre-1914 and post-1945 political life is not so great as to legitimize the self-congratulation. A hundred years of mostly peace had passed in Europe before the outbreak of World War I, while of course no EU existed during the 19th century. Two, there is no reason to believe that the First World War, as well as the wars of the 19th century, came about more because of the glorification of nationalism than because of the suppression of it. Three, the Second World War may have been triggered by national humiliation, but Nazism is certainly not easily classified as a 'nationalism' and the aims of the Axis powers far exceeded the possible scope of a nation state. Four, the fact that Western-European countries have not been engaged in a war with each other is clearly connected to the Cold War and the NATO alliance, rather than with the regulations from Brussels.<sup>43</sup> Five, what really makes war increasingly impossible is the unbearable destructiveness of modern weaponry. Combined with a highly prosperous population with, moreover, declining birth-rates, as well as the horrors of modern architecture that can surely be expected to replace every destructed building, there is simply no impetus to militarily solve problems anymore.

But there is yet another element to be mentioned. Far from being inherently conflict bound, aiming for national sovereignty is in fact the only stable and inherently peaceful political form. The only types of wars nation states can – by their very nature – aim for are defensive. This could be understood in terms of direct or collective self-defense, or of defense of interest or spheres of influence. If they aim for national leadership, however, the governments of nation states will not fight wars of territorial conquest, there being no reason for them to wish to expand their territory beyond the borders of their nation.

## 8.2. *THE UNIVERSAL SOCIETY*

The idea to move beyond borders implies, as we have seen, the assumption that no preconceived social condition of membership is needed for legitimate political decisions. As defenses of national loyalty and sovereignty are logically connected – so are defenses of supranationalism and multiculturalism. Both supranationalism and multiculturalism take root in the idea of the universal

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<sup>43</sup> Cf. Carl Schmitt, *Das politische Problem der Friedenssicherung* (Wien: Karolinger Verlag, 1993). In this essay, Schmitt poses the question what – if peace is the opposite of war – a state of peace really means. He states that the current 'pax Americana' in effect means that the world complies with American wishes. As soon as rivalling powers arise, the pax Americana will turn out to be a *bellum Americanum*, Schmitt argues.

society, of rational individual agents and abstract, 'objective' criteria of justice. In opposition to the particularism of the nation state, supranationalism and multiculturalism can only be properly understood when we take into account the Enlightenment conception of the social contract. As we shall see, the philosophy of the social contract provides a means to legitimize political decisions entirely separated from social – national – preconditions, and indeed introduces, through its strong emphasis on natural law, a test to the legitimacy of existing arrangements.

Social contract theory is 'a general label for views which try to found all ideas of legitimacy and political obligation in a contract'.<sup>44</sup> 'The essence of this view,' Scruton continues, is that 'since to contract is to put oneself under an obligation, the grounds of political obligation would be objectively determined if all such obligations could be traced to a contractual promise'.<sup>45</sup> The philosophy of the social contract thus teaches that the order of society relies solely on rational self-interest; that it is not in a shared identity, in shared ideals, but in a shared individual rationale that man decides to join into society with others.

This obviously implies that there is no foundation for the existence of different states, as the terms of the contract are – at least in the most pure form of social contract theory – supposed to be universal and to apply to the conditions of human nature, not to any specific needs of the Frenchmen or the Germans.<sup>46</sup> Moreover, social contract theory also diminishes the legitimacy of existing states as their sole task as well as their sole reason of existence is supposed to be their realization of the individual's interests.

Though born in stages, the understanding of the state as the result of some form of contract was ingrained in the very theory of the modern, centralized state. Jean Bodin takes as his initial premise, as we saw in part I, a 'war of all against all',<sup>47</sup> and so does Thomas Hobbes. When the latter wrote his *Leviathan* (1651), it was in many respects a logical follow-up of earlier works scrutinizing the relation of man to nature, and man to man.<sup>48</sup> Hobbes worked, in the typical Enlightenment manner, *ab initio*. One source of inspiration for this had been, of course, the works of the Dutchman Hugo Grotius (1583-1645), who in his *De*

<sup>44</sup> Scruton (2007) 641 under 'Social contract'.

<sup>45</sup> *Ibidem*.

<sup>46</sup> Or indeed to the Alsatian, the Bavarian, or the Saxon: a generalization already implied in the idea of nationality.

<sup>47</sup> Bodin (1995) book I, ch. VI, 59-60: 'Reason and common sense alike point to the conclusion that the origin and foundation of commonwealths was in force and violence (...) such being the origin of commonwealths, it is clear why a citizen is to be defined as a free subject who is dependent on the sovereignty of another.'

<sup>48</sup> Cf. Thomas Hobbes, *The Elements of Law. Natural and Politic* (1640).



*jure belli ac pacis* (1625) had already discerned fundamental principles of natural law that applied to the individual vis-à-vis the state (i.e. 'inalienable' rights).<sup>49</sup>

For Hobbes, the most threatening political situation was the anarchy in the state of nature. In the first part of *Leviathan*, *Of Man*, Hobbes sets out his view of needy human nature and the state of war of all against all (*bellum omnium contra omnes*) when there is no sufficiently powerful state. In the second part, *Of Common-wealth*, he then proceeds to sketch the outlines of what would have to be required to let man step out of this state of nature and into the civilized condition. Essential for this stage would be, according to Hobbes, the loss of virtually all natural rights. Therefore, although Hobbes accepts the premise of the social contract, the outcome does not deligitimize the existing political order.

In many ways his successor, John Locke (1632-1704), took Hobbes' treaty as the basis, but added, in the second part of his *Two treatises on Government*, inalienable rights that are derived from man's natural entitlements in the state of nature, but that continue to apply even after having entered into the civilized state. Locke acknowledges that 'wherever (...) any number of men are so united into one society, as to quit every one his executive power of the law of nature, and to resign it to the public, there, and there only, is a political, or civil society'.<sup>50</sup> But he adds that the aim of entering into civil society is to set up

a judge on earth with authority to determine all the controversies and redress the injuries that may happen to any member of the commonwealth

in order that the member's 'life, liberty and estate' be protected.<sup>51</sup> Locke warns for the 'breach of trust in not preserving the form of government agreed on, and in not intending the end of government itself, which is the public good and preservation of property'. Should this happen indeed, then

a king has dethroned himself and put himself in a state of war with his people.<sup>52</sup>

In such a case, the legislative power 'reverts to the society, and the people have a right to act as supreme, and continue the legislative in themselves; or erect a new form, or under the old form place it in new hands, as they think good'.<sup>53</sup>

It was the French writer Jean-Jacques Rousseau (1712-1778), then, who introduced the concept of the 'volonté générale' in his Enlightenment work *Du Contrat Social*. The 'general will', he contended, could decide whether there was

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<sup>49</sup> Grotius, *The rights of war and peace, including the law of nature and of nations*. Translated from the original Latin (New York: M. Walter Dunne, 1901). This has been discussed in chapter 1.

<sup>50</sup> Locke, *The second treatise of Government* (1690) chapter VII: 'Of political or civil society', par. 89.

<sup>51</sup> Locke (1690) chapter VII: 'Of political or civil society', par. 87.

<sup>52</sup> Locke (1690) chapter XIX: 'Of the dissolution of government', par. 239.

<sup>53</sup> Locke, *The second treatise of Government* (1690) chapter XIX: 'Of the dissolution of government', par. 243.



such a violation of rights described by Locke. According to Rousseau, society was to be an expression of the continuing redrawing of the social contract: 'the people, who are subjected to the laws, should be their author.'<sup>54</sup>

And this contributed decisively to the view of society that dominated the French Revolution. In the words of Raymond Aron, 'the French Constituents wrote that the aim of all political associations is the preservation of the natural and inalienable rights of man.'<sup>55</sup>

Supranationalism and multiculturalism take root in the universal social contract as laid out by these Enlightenment doctrinaires. As a result, both supranationalists and multiculturalists hold an unproblematic conception of what a society is: a society of man, not of people. As T.S. Eliot sarcastically voiced the Enlightenment view of political society in 1934: we are 'dreaming of systems so perfect that no one will need to be good.'<sup>56</sup>

This is evident in the writings of Bernard de Mandeville, who suggested that 'private vices' lead to 'public benefits',<sup>57</sup> as well as in those of Kant, who argued that the perfect laws would even turn devils into good citizens – thus leaving no room for the individual to be either good or bad.<sup>58</sup>

While the Enlightenment introduced this idea of the universality of human desires and the rationality of self-interest, it was romanticism that gave rise to the worship of cultural identities that we see in multiculturalism. As the romantics

<sup>54</sup> Du contrat social, II, 6. Cf. L.G. Crocker, *Rousseau's social contract. An interpretive essay* (Cleveland: Press of Case western reserve university, 1968) 73.

<sup>55</sup> Raymond Aron, 'Is multinational citizenship possible?', in: *Social Research. An international quarterly of the social sciences*, Volume 41, no. 4 (Winter 1974) 638-656, there 641.

<sup>56</sup> 'Why should men love the Church? Why should they love her laws? / She tells them of Life and Death, and of all that they would forget. / She is tender where they would be hard, and hard where they like to be soft. / She tells them of Evil and Sin, and other unpleasant facts. / They constantly try to escape / From the darkness outside and within / By dreaming of systems so perfect that no one will need to be good. / But the man that is will shadow / The man that pretends to be.' T.S. Eliot, 'Choruses from "the Rock"' (1934), in: *The complete poems and plays of T.S. Eliot* (London: Book Club Associates, 1977) 159: 'VI'.

<sup>57</sup> Bernard de Mandeville, *The fable of the bees, or, private vices, public benefits* (1714).

<sup>58</sup> Kant held that a good organization of the state forces the human agent 'to be a good citizen even if not morally a good person': '... es [kommt] nur auf eine gute Organisation des Staats an (...), jener ihre Kräfte so gegeneinander zu richten, das seine die anderen in ihrer zerstörenden Wirkung aufhält, oder diese aufhebt: so dass der Erfolg für die Vernunft so ausfällt, als wenn beide gar nicht da wären, und so der Mensch, wenngleich nicht ein moralisch-guter Mensch, dennoch ein guter Bürger zu sein gezwungen wird. Das Problem der Staatserrichtung ist, so hart wie es auch klingt, selbst für ein Volk von Teufeln (wenn sie nur Verstand haben) auflösbar und lautet so: "Eine Menge von vernünftigen Wesen, die insgesamt allgemeine Gesetze für ihre Erhaltung verlangen, deren jedes aber insgeheim sich davon auszunehmen geneigt ist, so zu ordnen, und ihre Verfassung einzurichten, dass, obgleich sie in ihren Privatgesinnungen einander entgegenstreben, diese einander doch so aufhalten, dass in ihrem öffentlichen Verhalten der Erfolg eben derselbe ist, als ob sie keine solche böse Gesinnungen hätten.' Kant (2005) 31, Zweiter Abschnitt. Die definitivartikel. Erster Zusatz. As is noticed by Harry van der Linden, *Kantian ethics and Socialism* (Indianapolis: Hackett Publishing Company, 1988): 'A more fundamental consideration is that intelligent devils realize that coercion is a rational response ...'.

tended to ethnic conceptions of nationality (as discussed in chapter 3), they were also quick to regard the culture of immigrants as something 'inalienable'. Rousseau – with one foot in the Enlightenment, and one in Romanticism – has been important in this too, when he expressed the influential idea that *l'homme est un être naturellement bon, aimant la justice et l'ordre*.<sup>59</sup> Indeed, the idea of the natural goodness of man – itself admittedly as old as civilization and the conception of loss of innocence in the garden of Eden<sup>60</sup> – rises to a level of general acceptance in the eighteenth century, and as the idea of original sin is discarded, and evil is no longer taken to come from man himself, but from the bad arrangements of society, it becomes possible to conceive peace as a far more natural condition of man to live in, than war.<sup>61</sup>

With this idea that man is good out of himself, and that it is through the vested interests that he becomes corrupted, rather than through his own wicked nature, the necessity for *Bildung* loses much of its legitimacy. 'Be yourself, no matter what they say', has become the new creed.<sup>62</sup> And just as the Enlightenment idea that a perfect system would even turn devils into good citizens, this belief in man's natural goodness, too, easily results in the idea, that the particularities of each culture could happily flourish next to one another.

Having thus sketched the roots of the idea to move beyond borders as this combination of rationalism that can be found in the Enlightenment, and the conception of man's natural goodness and cultural predetermination that was enshrined in much of Romanticist ideas, fast forward again to the 20th century.

In an influential book in 1971, *A Theory of Justice*, John Rawls formulated the ultimate consequences of these intellectual currents. In this book, Rawls

<sup>59</sup> Jean-Jacques Rousseau, 'Lettre a C. de Beaumont' (1763), in: *Euvres complètes* (Paris: Pléiade, Gallimard, 1964) 925-1028, there 936: 'Le principe fondamental de toute moral, sur lequel j'ai raisonné dans tous mes Ecrits, et que j'ai développé dans ce dernier avec toute la clarté dont j'étais capable, est que l'homme est un être naturellement bon, aimant la justice et l'ordre ; qu'il n'y a point de perversité originelle dans le coeur humain, et que les premiers mouvements de la nature sont toujours droits.'

<sup>60</sup> See on this: Henri Baudet, *Paradise on Earth. Some thoughts on European images of Non-European man*. Translated by Elizabeth Wentholt (Middletown: Wesleyan University Press, 1988) 9ff.

<sup>61</sup> Compare in this respect: Oswald Spengler, 'Ist Weltfriede möglich?', in: *Ibidem, Reden und Aufsätze* (München, Beck Verlag, 1937): 'Der Friede ist ein Wunsch, der Krieg eine Tatsache (...). Das Leben (...) ist ein Kampf um die Macht, seinen Willen, Vorteil oder seine Meinung vom Nützlichen oder Gerechten durchzusetzen, und wenn andre Mittel versagen, wird man immer wieder zum letzten greifen, der Gewalt. (...) Wenn ganze Völker pazifistisch werden, ist es ein Symptom von Altersschwäche. (...) So lange es menschliche Entwicklung gibt, wird es Kriege geben.' And Carl Schmitt, *Das politische Problem der Friedenssicherung* (Wien, Karolinger Verlag, 1993): 'Heute erscheint uns eine Befriedigung der ganzen Erde praktisch nur dadurch möglich, dass mehrere Weltmächte sich verständigen. Sie müssten dann die Erde unter sich verteilen.' And: Carl Schmitt, 'Machiavelli-Zum 22. Juni 1927', in: *Kölnische Volkszeitung*, Jg. 68, No. 448 (June 21, 1927) 1: 'If men were good, my views would be wicked; but men are not good', as quoted in: Joseph W. Bendersky, *Carl Schmitt, Theorist for the Reich* (Princeton: Princeton University Press, 1983) 87.

<sup>62</sup> Sting, chorus from the song *Englishman in New York*.

defended the idea – indeed a logical consequence of the aforementioned developments – that ‘different conceptions of the good’ would not be a problem for joining into society together. *A Theory of Justice* forms the highpoint and the standard reference for the new approach to borders: limitless universalism, and limitless particularism combined. This, as we have observed now, stands opposed to the compromise of universalism and particularism that the nation state seeks to make, in which the law is universal in the sense that it applies to all citizens, yet particularist in the sense that it is the expression of *this* particular people, living on *this* particular territory, with this particular history and set of values and customs.

Rawls explains in the introductory chapter of his *A Theory of Justice* that he sets out to devise a theory of justice that applies to every society. His aim is to sketch the contours of justice as it is in every time and every place. To do so, Rawls takes the idea of the social contract, ‘as represented by Locke, Rousseau, and Kant,’<sup>63</sup> and sets out to ‘generalize it’ and to carry it ‘to a higher order of abstraction,’<sup>64</sup> of such a nature, that ‘a theory can be developed that is no longer open to the more obvious objections often thought fatal to it.’<sup>65</sup>

With these ‘obvious objections’, Rawls means the fact that people from a different starting situation will prefer different contractual arrangements. To overcome this problem, he invents the ‘original position’, a fictional condition in which all contractual parties will not only be equal, but also afflicted with a ‘veil of ignorance’ over the position in society that will be theirs. Rawls contends that by applying this principle consistently, we will be able to retrieve those arrangements that make a universally just society possible.

However attractive this idea may be, there is one premise in the whole undertaking that is easily overlooked, but deeply problematic. That premise is of course that in order for Rawls’ project to work, it should be *possible* that all differences between human agents, be it of social, economic, cultural or religious nature, be included in a single society.

Among the essential features of this situation is that no one knows his place in society, his class position or social status, nor does any one know his fortune in the distribution of natural assets and abilities, his intelligence, strength, and the like.

So far so good: Rawls is presenting some system of distribution of wealth and of social arrangements within an existing society that one can agree or disagree with.<sup>66</sup> But then he continues:

<sup>63</sup> John Rawls, *A Theory of justice* (Clarendon Press, Oxford, 1972) preface, vii.

<sup>64</sup> Rawls (1972) viii.

<sup>65</sup> Rawls (1972) viii.

<sup>66</sup> Even though quite what kind of arrangement never becomes even remotely clear, as has been convincingly argued by: Brian Barry, *The liberal theory of justice: a critical examination of the principle doctrines in: A theory of justice by John Rawls* (Oxford: Clarendon Press, 1973);

I shall even assume that the parties do not know their conceptions of the good or their special psychological propensities.<sup>67</sup>

Indeed, for Rawls to come to just terms, 'they are to presume that even their spiritual aims may be opposed, in the way that the aims of those of different religions may be opposed.'<sup>68</sup> It becomes clear, that Rawls is really not talking so much of a particular distribution of wealth for an already in-place society, but rather setting up the principles of the universal society (though he always talks of 'a' society, as though of one among several).<sup>69</sup>

The contractual parties in the original position, he stresses once more, 'do not know, of course, what their religious or moral convictions are, or what is the particular content of their moral or religious obligations as they interpret them (...) the parties do not know how their religious or moral views fare in their society, whether, for example, it is in the majority or the minority.'<sup>70</sup>

All those who follow, in their several ways, this Rawlsian idea, be it on the social-democratic side, the liberal side, or the libertarian side (as such wide-ranging social-economic arrangements have been defended in its name),<sup>71</sup> will naturally come to view borders as obstacles, as impractical, inherently illegitimate and outdated residues that do not serve any particular interest in the sense that rational contemplation can bring forth higher principles of universal justice, and therefore there being no need for divisions. In line with Eleanor Roosevelt, they contemplate the 'Magna Carta for all mankind';<sup>72</sup> rather than that of specific peoples.

And it is certain that not only a generation of politicians and philosophers has grown up on this idea; social contract theory as a universal system of justice is presently by far the most important philosophy on the theory of statehood taught and discussed in schools and academic curricula,<sup>73</sup> so much so that it

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Brian Barry, *Theories of justice. A treatise on social justice*, Vol. 1 (London: Harvester-Wheatsheaf, 1989); N. Daniels (ed.), *Reading Rawls: critical studies on Rawls' A theory of justice* (Oxford, 1975); Robert Nozick, *Anarchy, state, and utopia* (New York: Basic Books, 1974); J.H. Wellbank (ed.), *John Rawls and his critics; an annotated bibliography* (New York, 1982).

<sup>67</sup> Rawls (1972) 12.

<sup>68</sup> Rawls (1972) 14.

<sup>69</sup> The fact that in his later publication, *The law of peoples* (Cambridge, MA: Harvard University Press, 1999), Rawls simply assumes the existence of nations without questioning them, does not affect this.

<sup>70</sup> Rawls (1972) 206.

<sup>71</sup> M.J. Trappenburg analyzes the different political views that can be defended on the basis of the 'original contract', in: Trappenburg, M.J., 'John Rawls', in: Cliteur, P.B., Van der List, G.A. (eds.), *Filosofen van het hedendaags liberalisme* (Kampen: Kok Agora, 1990) 91-105.

<sup>72</sup> Eleanor Roosevelt, *Speech for the United Nations at the announcement of the Universal Declaration of the Rights of Man*, 9 December 1948. Available online at <http://www.udhr.org/history/ergeas48.htm>.

<sup>73</sup> See for instance Will Kymlicka's widely used handbook of political philosophy. Kymlicka, *Contemporary Political Philosophy: An introduction* (Oxford: Oxford University Press, 2002).

seems to many now impossible to conceive of legitimate statehood and just political arrangements in other than contractual terms.<sup>74</sup> As has been discussed above, all versions of social contract theory, as Hobbes, Locke, Rousseau and others in their several ways argue, ignore the question of community, as they start with a gathering of random people agreeing on the terms of a contract by which all of them will be bound – we already saw this. Yet this universalistic idea that is implicit in every form of social contract theory (as it is implied in its very premise of a ‘precontractual phase’ and the rational principles on which a society is supposed to have to be founded if it is to be ‘just’) presupposes a shared idea of community.

Roger Scruton has analyzed that if the people that are drawing up a contract ‘are in a position to decide on their common future, it is because they already have one: because they recognize their mutual togetherness and reciprocal dependence, usually as a result of an already common past,’<sup>75</sup> which makes it incumbent upon them to settle how they might be governed under a common jurisdiction in a common territory.’ Therefore, Scruton suggests a social experience of cohesion (i.e. nationality) that precedes the discussion over dividing rights and duties and of redistributing wealth. He continues:

In short, the social contract requires a relation of membership, and one, moreover, that makes it plausible for the individual members to conceive the relation between them in contractual terms. Theorists of the social contract write as though it presupposes only the first-person singular of free rational choice. In fact it presupposes a first-person plural, in which the burdens of belonging have already been assumed.<sup>76</sup>

Once the idea had caught ground that a society could be formed by any human agent reasonable enough to come to a certain rational understanding of his self-interest, the presupposed social experience of membership became easily neglected. Basically anyone, it was now held, would agree with the principles of a wise social contract. However, to sit together at a table and decide on a common future requires a loyalty preceding that political reality: a ‘we’ that is not defined as self-interest rightly understood, but, quite the contrary, in the words of Raymond Aron,

Individuals cannot become citizens of the same state unless they feel a common destiny.<sup>77</sup>

<sup>74</sup> Even though impressive critique on this idea has been formulated by equally modern political philosophers, for example by Burke in his *Reflections on the Revolution in France*, by Hegel in his *Philosophy of Right*, and by Michael Oakeshott in *Rationalism and Politics*.

<sup>75</sup> Compare Renan and Fustel de Coulanges on the ‘nation’ in chapter 3.

<sup>76</sup> Scruton, *England and the need for nations* (London: Civitas, 2004) 9.

<sup>77</sup> Raymond Aron, ‘Is multinational citizenship possible?’, in: *Social Research. An international quarterly of the social sciences*, Volume 41, no. 4 (Winter 1974) 638–656, there 655.

Because this 'common destiny', this 'we', not defined by rational self-interest, is necessary – there being otherwise no reason to accept the political say of others – social contract theory is ultimately in need of a preceding fundament. Whatever claims to economic redistribution or social justice one may justify on the basis of a theory of social contract: it always presupposes the experience of membership and could therefore not be used to legitimize whatever world government may be desired.

### 8.3. *THE ALL-INCLUSIVENESS OF LOYALTIES*

A third fallacy that serves to defend supranationalism and multiculturalism is that it is possible to have multiple political loyalties. In this view, it is not the compulsory blueprint of universalism that seeks to delegitimize the nation state, but quite the contrary: the supposed non-contradictory nature of particularities. If there is no reason to defend the membership of one particular nation at the cost of another, what legitimacy does the idea of a 'Leitkultur' still possess?

Usually, two arguments are presented preliminary to this viewpoint, which are, however, internally contradictory: first, that no national 'core identity' exists, and second, that it is impossible to 'turn back the clock'. An example of how these contradicting arguments are presented is the speech of the Dutch crown princess Máxima, held in 2007, at the presentation of a report by the WRR, the Scientific Council for Government Policy in the Netherlands. The report was called *Identification with the Netherlands*.<sup>78</sup> It addressed the problems related to national identity that have arisen in the past decades 'as a result of internationalization and mass-immigration'.<sup>79</sup>

Princess Máxima declared that 'the Dutch identity does not exist',<sup>80</sup> and quoted with sympathy her father in law, the late Prince Claus, husband of the Queen of the Netherlands, who had allegedly spoken the remarkable words: 'I have several loyalties and I am a citizen of the world, a European, and a Dutchman'.<sup>81</sup> The

<sup>78</sup> WRR, *Identificatie met Nederland* (Amsterdam: Amsterdam University Press 2007).

<sup>79</sup> WRR (2007) 24-26. The WRR makes a different kind of distinction, though, recognizing four developments: 'Globalisation, Europeanization, Individualisation and Multiculturalization'.

<sup>80</sup> Princes Máxima, *Speech of 24 September 2007*, 'Zo'n zeven jaar geleden begon mijn zoektocht naar de Nederlandse identiteit. Daarbij werd ik geholpen door tal van lieve en wijze deskundigen. Ik had het voorrecht met veel mensen kennis te maken. Heel veel te zien, te horen en te proeven van Nederland. Het was een prachtige en rijke ervaring waarvoor ik enorm dankbaar ben. Maar 'de' Nederlandse identiteit? Nee, die heb ik niet gevonden'. Available online at [http://archief.koninklijkhuis.nl/Actueel/Toespraken/Toesprakenarchief/2007/Toespraak\\_van\\_Prinses\\_Maxima\\_24\\_september\\_2007](http://archief.koninklijkhuis.nl/Actueel/Toespraken/Toesprakenarchief/2007/Toespraak_van_Prinses_Maxima_24_september_2007).

<sup>81</sup> *Ibidem*: "Eén vraag die heel moeilijk te beantwoorden is en die mij herhaaldelijk gesteld werd, is hoe het voelt Nederlander te zijn. Mijn antwoord is: "Ik weet niet hoe het is Nederlander te zijn. Ik heb verschillende loyaliteiten en ik ben wereldburger en Europeaan en Nederlander." Woorden die ik nooit ben vergeten. Om de identiteit en loyaliteit van een mens zijn geen hekken te plaatsen. Ik denk dat veel mensen het zo voelen."



princess, who mentioned that she was trained as an economist,<sup>82</sup> stressed that the world has 'open borders',<sup>83</sup> and that

it is not either-or. But and-and'.<sup>84</sup>

This plea for 'and-and' was largely in lines with the positions defended in the report of the scientific council. Proposing to move away from the idea of 'one national identity',<sup>85</sup> the council pointed at three 'perspectives' on national 'identification': functional, normative, and emotional.

With 'functional identification', the Council denoted the kind of identification that results from utilitarian interaction. Typical areas in which this can be realized, according to the academics of the WRR, are 'neighborhoods, working places, and schools'.<sup>86</sup>

With 'normative identification', the authors of the report denoted the importance not only of adaptation 'to the norm', but also meant to stress that there should be room and platform for newcomers to effect 'adaptations of the norm', ultimately in the political arena as well.<sup>87</sup>

'Emotional identification', finally, is what the authors call 'a sense of belonging', on which according to them the public debate had focused too much in recent years. As a result, according to the council, instead of amplifying this emotional identification, newcomers had been discouraged, and retreated into their culture of origin.<sup>88</sup>

<sup>82</sup> *Ibidem*: 'Daarom zeg ik ook als econoom: het is goed als je organisatie mensen in huis heeft die van elkaar verschillen. Diversiteit loont.'

<sup>83</sup> *Ibidem*: 'Het rapport van de WRR geeft veel aandacht aan functionele identificatie. Dat betekent heel simpel: elkaar leren begrijpen omdat je samen een belang deelt. Denk aan een sportclub. Of een bedrijf. Of een school. Of een buurt. Het goede daarvan is dat de nadruk niet ligt op de zichtbare verschillen tussen mensen. Maar op het gezamenlijke doel. En op ieders persoonlijke kwaliteiten. Zo kunnen vooroordelen wegsmelten. Samen spelen. Samen studeren. Samen werken. Dat geeft jonge mensen met verschillende achtergronden een gezamenlijk perspectief. Dat is enorm belangrijk in een wereld van open grenzen.'

<sup>84</sup> *Ibidem*: 'We vervallen gemakkelijk in zwart-wit denken. Maar daarmee doen we onszelf en anderen te kort. Mensen hebben altijd méér dimensies. Mensen veranderen ook. Dat is wat mensen zo bijzonder maakt: het vermogen zich te ontwikkelen. Het is niet 'of, of'. Maar 'en, en.'

<sup>85</sup> WRR (2007) 196ff. 'De raad kiest op basis van zijn bevindingen echter voor een nieuwe benadering en bepleit een wisseling van het perspectief waarin één nationale identiteit centraal staat, naar een perspectief waarin wordt onderkend dat het bij vragen van identiteit altijd gaat om meervoudige processen van identificatie.'

<sup>86</sup> WRR (2007) 204.

<sup>87</sup> WRR (2007) 206, 'Normatieve identificatie houdt in dat mensen de mogelijkheid hebben voor hen betekenisvolle normen te volgen, publiekelijk te articuleren en dat er voldoende gelegenheid is om conflicten over die normen democratisch op te lossen. Het aanpassen aan de norm gaat in de meeste gevallen vanzelf. Het veranderen van normen is veel lastiger. De ruimte om dat te kunnen doen en andere normen in te brengen in de publieke arena is echter wel een noodzakelijke voorwaarde voor identificatie en is ook belangrijk om processen van disidentificatie te voorkomen.'

<sup>88</sup> WRR (2007) 207, 'Emotionele identificatie gaat over gevoelens van verbondenheid met anderen en in abstractere zin met Nederland, over een 'sense of belonging'. We hebben laten zien dat burgers in een veranderende samenleving zoals de Nederlandse meerdere loyaliteiten hebben

All things viewed together, the WRR stated that ‘with our plea for an and-and approach, we presuppose the existence and importance of multiple identities and identifications.’<sup>89</sup> According to the authors,<sup>90</sup> no core identity exists in societies or in individuals: on the contrary, societies and individuals alike are in a constant flux. This may be true to a certain extent, but it is quite something else to conclude from this that no national identity exists, no such thing as ‘*the Dutchman*’. By drawing that conclusion, the authors obviously attempted to thwart criticism of multiculturalism. For if no original national culture existed – how could one oppose the presence of new cultures?

Further down, however, the authors of the report, while attempting to score a rhetorical success, were apparently unaware of fundamentally contradicting themselves:

As if the Netherlands still have a realistic option to withdraw from the world and from Europe, and to reverse the multicultural society. As if the Netherlands, through processes of globalization, Europeanization, and continuing immigration, would lose their own identity and perish their own core.<sup>91</sup>

It seems to go largely unnoticed that this familiar argument in defense of multiculturalism – that we won’t ‘perish our core’ – is entirely incompatible with the aforementioned argument that ‘no core identity’ exists.<sup>92</sup> If we follow the line of argument, the Netherlands, thus, do not have a realistic option to withdraw from the world and to reverse the multicultural society anymore, as one cannot ‘turn back time’; yet at the same time, however, the Dutch are

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zonder dat dat een probleem hoeft te zijn voor hun verbondenheid met Nederland. Van belang is dat deze hybride identificaties erkend en gewaardeerd worden en niet onmiddellijk ter discussie worden gesteld. Juist als dat laatste wel gebeurt – zoals nu steeds vaker het geval is – wordt meer of minder expliciet een keuze geëist, een keuze die in een emotionele zin niet gemaakt kan worden, en die naar ons oordeel ook niet verlangd hoeft te worden.’

<sup>89</sup> WRR (2007) 200ff: ‘Onderscheid maken betekent niet noodzakelijkerwijs dat er tegenstellingen zijn: wij en zij denken is iets anders dan wij of zij denken. Met dit pleidooi voor een én-énbenadering gaan wij uit van het bestaan en van het belang van meervoudige identiteiten en identificaties.’

<sup>90</sup> The authors of this report were in fact a group of ‘experts’ under the presidency of a member of the council. The president was prof. dr. Pauline Meurs, and the members of the group were drs. Dennis Broeders (who was also the coordinator of the project), dr. mr. Fouzia Driouchi, dr. Monique Kremer, drs. Erik Schrijvers and Fleur Slegers.

<sup>91</sup> WRR (2007) 201ff: ‘Alsof Nederland nog een reële optie heeft om zich terug te trekken uit de wereld en Europa, en de multiculturele samenleving zou kunnen terugdraaien. Alsof Nederland door processen van globalisering, europeanisering en voortdurende immigratie zijn eigen identiteit zou verliezen en zijn eigen kern kwijt zou raken.’

<sup>92</sup> WRR (2007) 63: ‘In deze theoretische verkenning kwam naar voren dat in plaats van te spreken over nationale identiteit het vruchtbaarder is te spreken over meerdere vormen van identificatie. Identificaties kunnen dynamisch, sociaal, alledaags, nationaal en gelaagd zijn – denk bijvoorbeeld aan het onderscheid tussen functionele, normatieve en emotionele identificatie. Maar er is nog een reden om te willen spreken over identificatie (met Nederland) in plaats van over nationale identiteit.’



apparently unrealistically worried, because the Netherlands is not in danger of 'perishing its own core'.

Must we conclude that the academics of the WRR think that firstly, the Netherlands *do not* have a realistic option to withdraw 'from the world and from Europe' anymore, nor to 'revert the multicultural society', but secondly, that these processes *do not* threaten the Netherlands with the loss of its own identity and the perishing of its own core<sup>93</sup>? How can that be, when the WRR had argued that *no such core* existed in the first place?

It is clear that we simply can't escape some positive definition of, as Samuel Huntington put it, 'who we are'.<sup>94</sup> In any case, to state that no 'core identity' exists while at the same time contending that multiculturalism does not affect that core identity, is logically inconsistent.

This was also the essence of the criticism that burst out upon the publication of the WRR-report (and the accompanying speech of the Argentinean Crown Princess of the Netherlands). The historian Frank Ankersmit for example stated that thinking about national identity came up as a reaction 'to the a-historical worldview of the Enlightenment. For the Enlightenment, people of all times and all places and all parts of the world are in principle equal; and that leaves indeed little or no room for national identity.' This is what we have been discussing in chapter 3 on the Enlightened approach to the nation, amongst others in the words of Sieyès. Ankersmit continued:

Our national identity is not to be found in a certain set of general and unchangeable characteristics that social scientists should be able to find in the conduct of the Dutch.

This is also nothing new for us, having discarded the Romantic reaction to the Enlightenment, as Herder and Fichte and others have voiced it. Ankersmit then concludes:

One only comes on track with that if one takes note of the big tracts of Dutch history (...) What our national identity actually consists in, is not fixed for ever. It is always a matter of debate. But the fact that we debate our national identity, does not mean that it doesn't exist. That is the mistake princess Máxima makes. For who reasons in such a way, should also have to abolish history itself. And moral norms and values, for those are also the subject of ongoing debates.<sup>95</sup>

<sup>93</sup> WRR (2007) 201ff.: 'Nog los van het feit dat er weinig empirisch bewijs ter onderbouwing van deze stelling is, is zij ook weinig productief, want weinig toekomstgericht.'

<sup>94</sup> Samuel Huntington, *Who Are We: The Challenges to America's National Identity* (Simon & Schuster, New York, 2004). Cf. the works of Coos Huijsen, Robert Bellah, Rudiger Safranski, and many others.

<sup>95</sup> Frank Ankersmit, 'Prinses Máxima maakt denkfout', in: *NRC Handelsblad*, 2 October 2007, '(...) Onze nationale identiteit moet je niet zoeken in een bepaalde set van algemene en onveranderlijke eigenschappen die sociale wetenschappers zouden ontwaren in het gedrag van de Nederlanders. Nee, die komt men pas op het spoor door te letten op de grote lijn in de Nederlandse geschiedenis

Ankersmit chooses the third approach to nationality: it is open, but requires effort (and debate). It is the view of Renan and Fustel de Coulanges that I have also discussed in Chapter 3. The WRR tried to step over any positive definition of national identity because it believed this to focus on differences instead of bridging them. Yet what the WRR did not realize, is that it is logically impossible to talk about 'a renewal of Dutch identity' and a 'core' of Dutchness without presupposing the existence of such a thing.

Moreover, far from a means to exclude newcomers, can a shared national identity in fact bridge the differences in a diverse and cosmopolitan society.<sup>96</sup>

This is indeed contrary to what is generally believed, and probably the reason why defenders of multiculturalism go to such length to argue against national identity: they perceive it as something *exclusive* to newcomers, instead of something uniquely capable of *including* them.

Now of course strictly speaking, nationality is not identical with citizenship. While citizenship involves for example the right to vote, nationality involves the right to a passport. This is illustrated by the American Samoans, for instance, who possess the American 'nationality' and have a right to travel the US freely, but may not vote. The same goes for the Dutch from Aruba, who do not possess the right to vote either.

As these are exceptions to the general identification of 'citizenship' with 'nationality', however, in the following, as in the preceding chapter, the two will continue to be used as synonyms – as the WRR does as well. The council, while contending that 'an unjustified mingling' had occurred 'between nationality and loyalty', stated in its report that

having one, two, or more passports in itself does not say anything about one's loyalty to the Netherlands.<sup>97</sup>

Supporting the right to hold more than one nationality and thereby possess more than one passport<sup>98</sup> while stating that this would not have to affect the

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en op wat historici daarover gezegd hebben. Wat onze identiteit is, ligt daarom niet voor eeuwig en altijd vast. Die is altijd inzet van debat. Maar het feit dat we onze nationale identiteit ter discussie stellen, betekent nog niet dat die niet zou bestaan. Dat is de denkfout van prinses Máxima. Wie zo redeneert, zou ook de geschiedenis moeten afschaffen. En ook alle normen en waarden, want daar discussiëren we ook eindeloos over.'

<sup>96</sup> Following this article by Ankersmit, the weekly journal *Opinio* published a series of essays, mostly by historians, defending the same point of view. In this series were included analyses by amongst others Johan Huizinga, Hans Wansink, Willem Velema, A. Th. Van Deursen, and H.W. von der Dunk. *Opinio*, 12-18 October 2007 (yr 1, number 39), *Opinio*, 4-10 January 2008 (yr 2, number 1), *Opinio*, 18-24 January 2008 (yr 2, number 3).

<sup>97</sup> WRR (2007) 208: 'Er is een onterechte vermenging ontstaan tussen loyaliteit en nationaliteit. Het hebben van een, twee of meer paspoorten zegt op zichzelf niets over iemands loyaliteit aan Nederland.'

<sup>98</sup> WRR (2007) 208: 'Dit betekent dat de WRR hier een pleidooi houdt voor het formeel toestaan van dubbele nationaliteit door het laten vallen van de afstandseis.'

'loyalty to the Netherlands', one would expect the WRR to believe one primary political loyalty to be desirable (for why bothering to disconnect *loyalty* from *nationality* otherwise?). Yet the report then intends to show 'that citizens in a changing society like the Dutch have plural loyalties without this having to be a problem for their connection to the Netherlands.'<sup>99</sup> They thus call upon citizens to disconnect nationality from loyalty, and yet to accept that both are non-exclusive, overlapping and 'dynamic'. Apparently, the WRR thinks that it is perfectly possible to be a national without being loyal, and vice versa.

But is it really unproblematic to have no loyalty towards one's nationality, or to hold several different nationalities? Is there no logical – indeed necessary – connection between political loyalty and nationality? What is, in fact, required of a subject of a state?

The classical approach was that a citizen earned his 'rights', such as the right to partake in political decision-making, through the fulfillment of 'duties', such as paying taxes and partaking in the common defense. In the Greek *Polis* and the major part of the history of the Roman Empire, citizenship was regarded as a high responsibility, open and fit only for the privileged few.<sup>100</sup>

In the modern, democratic state, the emphasis has strongly been placed on the rights of citizenship, rather than the duties. Generally, citizenship is no longer viewed as something that must be 'earned', nor is it regarded as a heavy responsibility. Until well into the nineteenth century, the right to vote, for instance, was still confined to a small upper layer of society. Voting was regarded as a serious task that could be properly fulfilled only by those who belonged to the more or less financially independent and educated classes.<sup>101</sup> Partly as a result of the discourse of 'rights' gaining worldwide momentum, amongst others through the *Universal Declaration of Human Rights*, the idea that citizenship implies first and foremost the fulfillment of *duties* rather than the entitlement to *rights*, was lost.<sup>102</sup>

Although the duties of the citizen have thus moved somewhat to the background, it is by no means certain that they are no longer to be upheld. On the contrary, it will be argued in the remaining part of this chapter that the

<sup>99</sup> WRR (2007) 16: 'Dit rapport laat zien dat burgers in een veranderende samenleving zoals de Nederlandse meerdere loyaliteiten hebben zonder dat dit een probleem hoeft te zijn voor hun verbondenheid met Nederland.'

<sup>100</sup> Cf. J.P.V.D. Balsdon, *Romans and aliens* (London: Duckworth, 1979).

<sup>101</sup> See on this, for instance, Gerhard Leibholz, *Strukturprobleme der Modernen Demokratie*, (Karlsruhe, 1958) 80ff; Burke (1961) 186–210. Maurice Duverger, *Les Partis Politiques* (Paris: 1951) 466ff. Concerning the Dutch situation: Theo J. Veen, *De Staten-Generaal vertegenwoordigen het gehele Nederlandse volk* (Nijmegen, 2000) 34ff.

<sup>102</sup> It is clear, too, that this development is consequent upon the view of political order as resulting from a mere social contract.

fulfillment of duties continues to play a pivotal – however implicit – role in the well functioning of democratic states.

The discussion on this has focused for instance on whether ‘double passports’ should be allowed. In 1976, the ‘passport office’ of the American department of state published a report on *The United States Passport. Past, present, future*.<sup>103</sup> Tracing the first mention of a passport to Nehemiah 2.7,<sup>104</sup> the report analyzes that the ‘development of formal travel documents [has] always been necessary (...) in the relationship among nations.’<sup>105</sup>

Until well into the nineteenth century, however, international travel was not very common. In a perhaps prophetic part of his *Mémoires d'outre tombe*, Chateaubriand wonderfully attached the rise of the passport to the coming of the modern world when he arrived on May 19th, 1833 in Ulm, Baden-Wurttemberg:

We were halted at the gate of a village; the gate opened; they investigated my passport and my luggage (...) The vulgarity, the modernity of the customs and of the passport contrasted with the thunder, the gothic gate, the sound of the horn and the noise of the torrent (...)<sup>106</sup>

On his way to Prague, Chateaubriand arrived at the Austrian border village Waldmünchen two days later. However, his passage was refused:

– You will not pass.

– Pardon, I will not pass, and why? The explication commences:

– Your details are not on your passport. – My passport is a passport for foreign affairs. – Your passport is old. – It doesn't have a date; it should therefore still be valid. – it has not been visa'd by the Austrian ambassador in Paris. – You are mistaken, it has. – It does not have the dry stamp. – The embassy must have forgotten; besides, you will see the visa of other foreign delegations. I have just travelled the canton of Bâle, the grand-duchy of Bade, the kingdom of Wurtemberg, the whole of Bavaria, without the slightest difficulty. Upon simply stating my name, they did not even inquire in my passport. – You are a public figure? – I have been minister in France, ambassadeur of his Very Christian Majesty in Berlin, in London and in Rome. I am a personal acquaintance of your sovereign and of the prince of Metternich.

– You will not pass ...<sup>107</sup>

<sup>103</sup> *The United States Passport. Past, present future* (Department of State Publication 8851, department and foreign service series 153, released July 4, 1976).

<sup>104</sup> ‘And I said to the king, “If it pleases the King, let letters be given me to the governors of the province Beyond the River, that they may let me pass through until I come to Judah”’.

<sup>105</sup> *The United States Passport* (1976) 1.

<sup>106</sup> François-René de Chateaubriand, *Mémoires d'outre-tombe* (Paris: Classiques Garnier Multimédia, 1998) 221: book 36, chapter 6: ‘Nous étions arrêtés à la porte d'une ville; la porte s'ouvre; on s'enquiert de mon passeport et de mes bagages (...) La vulgarité, la modernité de la douane et du passeport contrastaient avec l'orage, la porte gothique, le son du cor et le bruit du torrent (...).’

<sup>107</sup> *Ibidem*: ‘– Vous ne passerez pas. – Comment, je ne passerai pas, et pourquoi? L'explication commence: – Votre signalement n'est pas sur le passeport. – Mon passeport est un passeport des

For the most part of the second half of the 19th century 'there continued the confusing practice by governments of issuing passports not only to their own subjects, but also to aliens traveling within the country'. Moreover, despite these troubles that Chateaubriand had ended up in, 'many European countries abolished passport requirements by mutual agreement'. This definitely changed with the First World War, 'with the need for both belligerents and neutrals to determine the identity of travelers in their territories'.<sup>108</sup> When the Great War had finished, the League of Nations consequently organized a conference on Passports in Paris: the 1920 *International Conference on Passports, Customs Formalities, and Through Tickets*.<sup>109</sup>

The conference would result in some general agreements on registering luggage, international train stations, and acceptance of foreign travel documents, and marks the global acceptance of the idea of the passport as, in the definition of the US passport office, 'a travel document (...) issued under the authority of the Secretary of State attesting to the identity and nationality of the bearer'.<sup>110</sup>

It is both with regard to the 'nationality' as well as to the 'identity' of the bearer that the supposed all-inclusiveness of passports proves inconsistent.

Let us first discuss nationality as such. The idea that multiple citizenship would only consist in an amplification of rights, rather than a multiplying of duties, shows a lack of understanding of the meaning of rights.

It is in the fulfillment of duties, not in the enjoyment of rights, that citizenship can only be attached to one state,<sup>111</sup> as the Dutch constitutional scholar Twan Tak has argued.<sup>112</sup> He said in an interview with the weekly *Opinio* that 'logically speaking, a double nationality is just as impossible as a double gender or a double religion. (...) Because let us not forget: having a nationality means being subject to a particular sovereign state.'<sup>113</sup> He continued:

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affaires étrangères. – Votre passeport est vieux. – Il n'a pas un an de date; il est également valide. – Il n'est pas visé à l'ambassade d'Autriche à Paris. – Vous vous trompez, il l'est. – Il n'a pas le timbre sec. – Oubli de l'ambassade; vous voyez d'ailleurs les *visa* des autres légations étrangères. Je viens de traverser le canton de Bâle, le grand-duché de Bade, le royaume de Wurtemberg, la Bavière entière, on ne m'a pas fait le moindre difficulté. Sur la simple déclaration de mon nom, on n'a pas même déployé mon passeport. – Avez-vous un caractère public? – J'ai été ministre en France, ambassadeur de sa Majesté Très Chrétienne à Berlin, à Londres et à Rome. Je suis connu personnellement de votre souverain et du prince de Metternich. – Vous ne passerez pas ...'

<sup>108</sup> *The United States Passport* (1976) 4.

<sup>109</sup> Mark B. Salter, *Rights of Passage: The passport in International Relations* (Colorado: Lynnie Rienner Publishers, 2003) 77ff.

<sup>110</sup> 22 Code of Federal Regulations 51.1 (d).

<sup>111</sup> Indeed, in terms of 'rights' it seems to be very convenient to have a second or even third passport. It makes it possible, for instance, to dispose of one passport and rely on the other, the duties of the one state are conceived as too heavy.

<sup>112</sup> Bart-Jan Spruyt, 'Dubbele Nationaliteit is een gedrocht, interview met Twan Tak', in: *Opinio*, 23 February 2007.

<sup>113</sup> *Ibidem*: 'Een dubbele nationaliteit is logisch net zo onmogelijk als een dubbele sekse of een dubbele religie. En wat onmogelijk is, moet je net per decreet alsnog voor mogelijk verklaren.

The most important problem is conflicting duties. The relation between state and subject does not only imply rights, but also duties. Who is the subject of a particular sovereign state, not only retrieves advantages from it, but also burdens and duties. With a double nationality, one can accumulate rights, but one has to take conflicting duties into account as well. For someone with a double nationality is subjected to two legal systems, with two systems of duties too.<sup>114</sup>

This is most clearly seen in a situation of war, when the state may call upon its citizens to perform military duties.<sup>115</sup> As Raymond Aron observed: 'How could a citizen possibly belong to several political entities at once? (...) Surely, (...) one cannot claim the rights of citizenship without accepting its duties, such as military service.'<sup>116</sup>

One possible reply to this would be that professional armies have to a large extent replaced military service. But it is not evident that this has been a permanent transition. It is, in any case, easy to doubt the political or moral advantages of a professionalized military. Again Raymond Aron:

I for one am not at all convinced that the replacement of a citizen army with a professional army represents any political or moral progress. It was the sending of a partially conscripted army to Algeria which foreshadowed the triumph of those in France who stood for an independent Algeria. In the United States it seems that popular demonstrations, if not popular indignation, died down as soon as college students were no longer being called up for service in Vietnam.<sup>117</sup>

But the state may assert its rights over its citizens in less extreme situations as well. Since citizenship means being subjected to the legal system of a state, the moment the two legal systems collide, the double citizen finds himself in a difficult situation. Imagine a French citizen who also holds a Turkish passport:

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Het is belachelijke onzin. Want laten we niet vergeten: het hebben van een nationaliteit betekent dat je onderdaan bent van één bepaalde, soevereine staat.'

<sup>114</sup> Spruyt, 'Dubbele Nationaliteit is een gedrocht', interview met Twan Tak', in: *Opinio*, 23 February 2007: 'Het belangrijkste probleem is een conflict van plichten. De relatie tussen staat en onderdaan kent niet alleen rechten maar ook plichten. Wie onderdaan is van één bepaalde soevereine staat, ontleent daaraan niet alleen voordelen maar ook lasten en plichten. Je kunt bij een dubbele nationaliteit rechten gaan opstapelen, maar je moet ook rekening houden met botsende plichten. Iemand met een dubbele nationaliteit is immers onderdaan van twee rechtssystemen, met ook twee systemen van plichten. En dat leidt al snel tot botsingen. Een dubbele nationaliteit suggereert in feite dat het feit dat je onderdaan bent van land X geen consequenties heeft voor het feit dat je ook onderdaan bent van het land Y. Met andere woorden: je Nederlanderschap heeft geen consequenties voor de eisen die de Marokkaanse nationaliteit aan jou als onderdaan stelt.'

<sup>115</sup> The history of military service is – from the point of view of national identity – tremendously interesting indeed. As Carl Schmitt notices, the reflections of the economist and sociologist Emil Lederer: 'Wir können sagen, dass sich am Tage der Mobilisierung die *Gesellschaft*, die bis dahin bestand, in eine *Gemeinschaft* umformte', in: Carl Schmitt, 'Der Begriff des Politischen', in: *Ibidem*, *Frieden oder Pazifismus?* (Ducker & Humblot, Berlin, 2005) 204n7.

<sup>116</sup> Raymond Aron, 'Is multinational citizenship possible?', in: *Social Research. An international quarterly of the social sciences*, Volume 41, no. 4 (Winter 1974) 638-656, there 638.

<sup>117</sup> Aron (Winter 1974) 638-656, there 656.

there have been attempts in France to legally forbid denying the Armenian Genocide, whereas it is forbidden for every Turkish citizen – even to those living abroad – to acknowledge it. Or imagine the Dutchman who also holds an American passport and may be prosecuted upon traveling to the United States because he has sold half a gram of Marihuana.

Nor do states with a large immigrant population in Europe labour to free their former citizens from their nationality. The Moroccan nationality is inalienable and will be passed on indefinitely. While it is theoretically possible to give up Turkish nationality, for instance, those who do so can count on reprisals from the Turkish government such as no longer being allowed in for a family visit. In line with this, the Turkish Prime Minister Erdogan told the Turks in Europe on his visit to Germany in October 2010 that they should not assimilate into their new nations, and that ‘assimilation is a crime against humanity’.<sup>118</sup> What is even more surprising is that Turkish Dutchmen are called up for an eighteen months military service in Turkey. They can buy themselves out for 5.000 euros, but cannot escape a 21-day stint, on pain of a prison sentence. Nor does Turkey turn a blind eye when it comes to breaches of the Turkish penal code committed by Dutchmen of Turkish descent in Holland.

As long as they are officially subjects of the Moroccan state, Rabat could similarly call up even those who have – for several generations now – been living abroad, to perform military service and claim jurisdiction over them. In theory, this could mean criminal prosecution for acts performed in the Netherlands, where no Moroccan interest was concerned, and which were entirely in compliance with Dutch law. Examples are criticizing the Moroccan king, the performance of an abortion, the use of soft drugs, homosexual behavior, or apostasy.

We have so far discussed the problems of double nationality with citizens. But in the Netherlands, a vehement discussion burst out in 2007 on the question whether an executive official may have a double nationality. Apart from the above-mentioned problems, which exist in the same degree for politicians and non-politicians, some additional questions remain when secretaries of state and other persons holding official positions, have a double nationality. Even when the primary political loyalty may not be in question, it is especially problematic as a politician can be held accountable, in the last instance, by another state.

What is also at stake with the rights-based conception of citizenship is the inflation of the passport as a guarantee of the issuing state that foreign governments can trust the holder of it. This is the ‘identity’ question related to passports.

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<sup>118</sup> Erdogan had already said the same thing two years before, upon his visit in 2008: cf. ‘Erdogan’s Visit leaves German conservatives fuming’, in: *Spiegel Online*, 2 December 2008. Available online at: <http://www.spiegel.de/international/germany/0,1518,534724,00.html>.



Free passage and hospitality are offered as a gesture of friendship from the one state and its citizens to the other. There is no such thing as a 'right' to enter the territory of another state: quite the contrary, the rule is that strangers are forbidden to enter the territory of another state; through international agreements, however, states have mutually opened up their borders to friendly citizens. This implies that the citizen holding a passport of the state whose citizens are allowed into a certain country can also to some extent be held accountable. When one state is at war with another, no travelers from that country are allowed in. Visas are not a right, but a gift, granted under the trust that the guest will behave well.

If states have no idea who holds a passport of a certain state, other states have no idea who they are admitting into their country. What this could mean *in extremis* was shown in the mid-90s, when the Oceanic state of Tonga offered its nationality for sale on the market. Anyone who paid a certain amount of money was offered Tongan citizenship and a passport. By doing this, the Island state hoped to attract foreign investors (and no doubt it offered low taxes and other business advantages), but as a result, many countries did not allow Tongan travelers to pass through their customs anymore. Once again, we discover that behind the legal formalities lie sociological and cultural preconditions that enable the formal legal approach in the first place. But once this legal formality is in place, we are easily led to believe that that is all that is needed.<sup>119</sup>

And that observation also bridges us to another aspect of the passport, which is not legal but cultural. Its symbolic value. The large numbers of immigrants from non-Western countries that European states have received in the last decades have led to serious pressure on its social cohesion. If immigrants retain the passport of their country of origin, this inevitably implies a conditional integration. They may always use the second passport to go back. That is another reason why a double passport may be problematic. For representative government and the rule of law require not merely *loyalty*, but a loyalty to the exclusion of other loyalties, at least when they conflict. This will be further explored in the next chapter.

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<sup>119</sup> Cf. the 'Nottebohm' case of the ICJ (*Liechtenstein v. Guatemala*, April 6th, 1955), in which the ICJ ruled that 'a genuine link' must exist between a citizen and a state in order to claim nationality of a state and insist that other states recognize the claim.