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CULTURAL AND IDENTITY SECURITY: IMMIGRANTS AND
THE LEGAL EXPRESSION OF NATIONAL IDENTITY

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Immigrants and the Legal Expression of National Identity

By Elspeth Guild¹

One of the most recurring themes about immigrants in Western Europe is their effect on national culture and identity. When anti immigrant parties gain votes in Member States one of the enduring responses is to question the role of immigrants themselves in eliciting their separation from the main stream community. The call for more and better integration of immigrants into the mainstream community is heard across Europe. In this essay I will consider some of the aspects of immigration and national identity in particular as these are reflected in Europe.

There are two starting points as regards this consideration the first is what is culture and identity as an expression of the national and sovereign and the second what is an immigrant in relation to cultural inclusion or exclusion in the nation. Both of these starting points engage the substance of the question of legal expression of national identity and foreigners. In order to understand these two concepts and their inter-relation, a framework regarding the nature of the nation, sovereignty and identity in law is required. For the first what is culture and the individual, an anthropologist, Ernest Gellner, provides important insights; for the second, what is the individual in the face of sovereignty, I shall use as a starting point the philosopher, Giorgio Agamben. Through these thinkers I will develop this essay on nation, culture and identity security and in the process show how the use of law as it becomes supra national (in Europe at least) changes the meanings and balances of the nation, sovereignty and identity. Further this process of transformation from the nation state to more varied forms of governance, particularly in Europe, is taking place with wide popular support.

Culture, the Individual and the Nation State

Turning first to Ernest Gellner, one of the last books which he wrote before his death in 1995 directly addresses the issue of cultural identity as expressed in the 20th century in the form of nationalism.² In his view only culture and social organisation are universal and perennial. States and nationalisms are not. Nationalism is a political principle which maintains that similarity of culture is the basic social bond.³ As he states “It simply is not the case that, at all times and in all places, men wanted the boundaries of social units and of cultures to converge, or to put it in a manner closer to their own style, that they wanted to be among their own kind, excluding ‘others’. On the contrary: men very, very often live in units which violated this principle, and most of the time this violation was accepted without protest or opposition, indeed without any awareness that a vital,

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² Gellner, E, *Nationalism* Phoenix, London 1997.

³ *Ibid* p 3.

alleged universal principle was being violated.”⁴ Gellner’s approach is central to this discussion as the representation of immigrants as a threat to cultural identity is based on the implicit idea that homogeneity of culture is a good thing and that persons with different cultural norms are threatening or a risk to the dominant group. The basis of the nationalist’s claim is that it is self evident that, as Gellner puts it, “people should be averse to living with people of a different culture and, above all, that they should resent being governed by them.”⁵ The result of nationalist theory is that there is a need “to protect the national culture by endowing it with its own state-protector, the need to unmask, neutralise and drive out the foreigners, who wish to destroy and debase that culture.”

Gellner outlines the transformation of Western societies from agrarian where solidarity is within classes rather than within a concept of the nation. According to his analysis, cultural affinity in agrarian cultures is not based on an idea of common national origins but on position in the hierarchy. Survival depended on access to resources which take the form of surplus food production. Access to this surplus food depends on a hierarchical relationship to those holding power - thus barons had more interest and solidarity with barons who were in a similar relationship to access to resources than with peasants who might be regarded as almost a separate species. According to Gellner the transformation from agrarian to industrial societies required a reformulation of the central organising principle from hierarchy within the meaning of the agrarian world – ie who gets access when to the surplus food supplies, - to technocracy and with it a different understanding of boundaries and solidarity. With characteristic modesty he finishes “All we can say is this: we are in possession (and have offered) an inherently plausible and persuasive argument which purports to show (a) that homogeneity of culture is an unlikely determinant of political boundaries in the agrarian world, and a very probable one in the modern industrial/scientific world and (b) that the transition from Agraria to Industria is also the transition from a world in which high (literacy and education-linked) cultures are a minority accomplishment and privilege (if they exist at all) to a world in which they become the pervasive culture of society as a whole. We have linked these general observations to the emergence of nationalism.”⁶

Thus following Gellner's approach, national identity is a construction of modernity - his "Industria" needs a mechanism of solidarity which embraces the majority of the population in a particular area through a widening of culture towards a common (economically dominated) vision of the world. The inclusiveness which national culture demands presupposes that it is fulfilling a mission of incorporation of persons into its field. Its object is to encompass those on the territory and thus integrate them into the main stream ideals and objectives of the society. The moment this idea of national culture becomes dominant, not only does culture need to impose itself in a national fashion but the separation of those who do not share the elements of the newly "national" culture from those who do takes the form of dividing those who belong and the minorities and immigrants

⁴ Ibid p 7.

⁵ Ibid p 7.

⁶ Ibid p 96.

who are different. The telescoping of these two categories - minorities as those who have not internalised the national culture and immigrants as persons whose antecedents are from elsewhere and for that reason participate in some other national culture which is in competition with the territorially bound one wherein they live is another part of the puzzle. Those successful minorities who manage to avoid this assimilation into foreignness become perceived as part of the variations within the national culture which are part of the settlement of regional claims, for instance accents in language. If they are incorporated into the national culture they also tend to lose their power. They are identified as relating to people from a particular place rather than a class.⁷

How then does national culture connect with immigrants? First immigrants must be identified as a group from the perspective of national culture. In all Western European societies there are two groups of immigrants - those who are visible and those who are invisible. This, of course, has nothing to do with colour or visible characteristics but to do with perceptions of the host community. For instance, in the UK, most US, Canadian and Australian immigrants are invisible. Although they are identifiable not least by the way in which they speak the language they are not defined in social terms as immigrants (whatever their legal status may be). Because they are classified as "not immigrants" for all but the most technical legal purposes, their claim to minor cultural differences, such as celebrating 4 July for US nationals, is tolerated as a manifestation which does not challenge national culture, much in the same way as regional cultural differences are tolerated. Those who are "visible" immigrants, they are not so because of colour but by designation. For example, Russians or Nigerians in the UK are classified as immigrants and are expected to conform in ways not expected of Canadians or Australians.

For the purposes of cultural identity, "immigrants" includes persons who hold the nationality of the state but who are suspected of retaining differences which are not sanctioned by the construction of the national culture. The discussion sparked by the UK Home Secretary, David Blunkett in September 2002 regarding a duty on "immigrants" to speak English at home is a good example. As the response of the press and other political leaders including former minister of the same party, Keith Vaz, showed, everyone understood immediately who the "immigrants" were of whom Mr Blunkett was speaking - Asians most of whom have lived all their lives in the UK and most probably as British citizens in law.⁸ This discussion was not about French Canadians living in the UK and speaking to their children their mother tongue at home. A Home Secretary could permit himself to make a comment about immigrants speaking English at home in full knowledge that everyone in the community hearing his comments would understand the code in which he was communicating. The definition of an "immigrant" for the purposes of this discussion, is based on certain cultural

⁷ Though not always so, parts of Agraria are still alive and well competing with national culture in Industria. The rules about who can walk on college greens in Cambridge is an example of this - being limited to a class based on privilege within a closed system.

⁸ Guardian, 16 September 2002 *Vaz attacks Blunkett in language row*

manifestations relating to the Indian sub-continent, not on immigration status, length of residence in the UK or indeed, acquisition of British citizenship.⁹

The definition of immigrant however, also indicates the tension between the modern world of Gellner and the post-modern world of Bauman¹⁰ where the value of speed of movement and money transforms the mechanisms of solidarity from national to that of economic class. The visible and invisible immigrant is not only defined by the host community's intolerance but also by economic power. Invisible remain those migrants who have good jobs, visible become those who are poor. This has become so much part of the landscape of who is an immigrant that the UK Home Office can issue a press release promoting the fact that it has issued 108,825 work permits for the admission of foreign nationals and their dependants in 2001, 19% higher than in 2000 and intends to issue more work permits for the admission of the highly paid in the future. Work permits are only issued to persons coming to work in the UK in high skilled and executive jobs for which they have already been hired. In the same press release, as a small note at the bottom of the page the same ministry can equally congratulate itself on a reduction of the number of asylum seekers in the same period by 11% to 71,365.¹¹

Any observer still in doubt about which are "the immigrants" need only look at the press release of the same ministry of 7 October 2002 where the Home Secretary sets out a raft of new measures to be brought in to help tackle abuse of the asylum system: "The UK has a long history of protecting those fleeing persecution, but we know that many of those applying for asylum are simply economic migrants. I am determined to crack down on the widespread abuse of our asylum process - to build trust and confidence in the system, and ensure that it works effectively to support those who have genuine protection needs." The economic migrants whom the same Minister was delighted to admit two weeks earlier are the wealthy. The poor economic migrants are those whom the Minister fears are seeking to abuse his asylum process. He does not indicate who, in the national culture, is the intended recipient of trust and confidence.

In the expression of national culture, the rich and those from states which have been culturally defined as invisible (or perhaps indivisible from the host state) are not the objects of integration discourse or requirements. They do not need to be required to adapt to a rather incomplete image of national culture.¹² The poor and those who are visible immigrants, even if they have the

⁹ For an excellent analysis of this issue see M Dummett *On Immigration and Refugees* Routledge: London & New York, 2001.

¹⁰ *Globalisation: the human costs* Z Bauman, Polity: London 1998.

¹¹ Home Office Press release 26 September 2002 *Home Office Statistics Show More Work Permit Holders Coming to the UK*.

¹² This incomplete nature is apparent in the discussion in the UK regarding the content of the new requirements for naturalisation as a British citizen. The Nationality Immigration and Asylum Act 2002 requires persons seeking to naturalise to demonstrate an understanding of UK society and civic structures and to take a citizenship oath. In order to determine what UK society and civic structures are the Home Office established a senior level independent group headed by a distinguished academic (Professor Sir Bernard Crick) to determine what the contents of the new citizenship courses and ceremony should be. Home Office press release 9 September 2002 *Experts to advise on Citizenship Reforms*.

nationality of the country itself and have lived there all their lives, are required to satisfy an ever higher threshold of integration until it arrives at the absurd - suggesting that families with more than one language ought to speak only the language of the host community inside their homes.

The hallmark of the categorisation of "immigrants" and "national culture" is the integration discourse. There is a duty on some people, who for ease of reference and to exclude them from the right to contest constraint, are called immigrants, to abandon some of their cultural expression in favour of becoming more like the host community. The difficulties of identifying what is the host community for the purposes of this integration duty are exemplified by the Dutch policy of requiring some immigrants to follow integration programmes.¹³ However, the principle that there are some people who may be obliged to become more like others is central to the concept of integration. Increasingly this takes legislative form in mandatory integration programmes which immigrants must follow or else be penalised by withdrawal of state benefits.¹⁴ The linkage of integration with poverty is apparent. If immigrants do not claim state benefits in certain forms such as income or family support (as opposed to medical services or mortgage tax relief which are state benefits for the well off) then they are not affected by the consequences of failure to comply. Integration is about transforming some persons into others and creating the incentives for those persons who are in the subordinate position and required to change to do so at the bidding of the dominant community.

It is instructive to note that cultural or social integration is not used as a mechanism of discourse or law as regards nationals of the EU Member States who are resident in Member States other than those of their nationality. It appears in the context of migrant workers, nationals of the Member States, only as regards the creation of the best conditions of integration for the spouses and children as regards access to benefits.¹⁵ It is for the spouses and children to determine whether or not they wish to avail themselves of the integration conditions. The discourse at the EU level uses the word "convergence" avoiding the subordinate/dominant difference implicit in integration. The Member States indices are converging one upon the other in a consistent manner. The discourse of convergence is a voluntary one where there is a programme within which there is a natural movement. It does not contain the coercive idea of the movement of lesser valued towards more valuable norms.

The European Union creates difficulties for the nationalist perspective from a number of different points of view. The word "immigration" is no longer used as regards movement of nationals of the Member States from one to the other. Instead these are persons who are exercising their right of free movement of persons. In EU parlance, the word immigration or immigrant is assiduously avoided in the description of the Portuguese national moving to Sweden or the Finnish national

¹³ Wet Inburgering Nieuwkomers WIN 1998.

¹⁴ This is the framework of the Dutch policy and is being introduced in other European countries such as the UK.

¹⁵ Preamble, Regulation 1612/68.

moving to Spain. With each enlargement of the European Union, starting with Denmark, Ireland and the UK in 1971, fears were expressed about the influx of “immigrants” expected from the new Member State. In 1971 parts of the press in France and the Netherlands were filled with scare stories about how Black Britons with no tradition of minimum wages were on their way to these countries to take jobs from local people.¹⁶ There was a reoccurrence of this process taking place over the period towards May 2004 as regards the enlargement of the European Union. The perception of nationals from these states was already under transformation from “immigrants” to citizens of the Union. By 2006 such a change had taken place in the perception on nationals of these states as fellow citizens of the Union that the majority of Member States lifted transitional restrictions on free movement of workers from the 2004 joiners. The fate of Bulgarian and Romanian nationals whose states are joining on 1 January 2007 remains in the balance though it is clear some “old” Member States will not apply transitional restrictions on free movement of workers (for instance Finland).

It is also worth bearing in mind that, contrary to the nationalist discourse, nationals of EU Member States have consistently voted in favour of transferring fundamental governance responsibilities to the exclusive benefit of the EU. They have continuously deprived themselves of the right to govern themselves as nation states. Instead there has been a conscious choice (if reluctant in some Member States such as Denmark) to share the powers of governance for foreigners (ie nationals of other Member States). Of course each Member State is represented in the EU institutions and for the moment at least each Member State has a power of veto over legislative acts. But once an act has been adopted all Member States are obliged to respect and give effect to it.¹⁷

Cultural Identity, the Individual and Sovereignty

The second key to understanding the relationship of the concept of cultural identity and immigrant status is that of sovereignty. Who is entitled to differentiate between the citizen and the immigrant and what are the theoretical positions? Here Giorgio Agamben's work on sovereignty is useful. Sovereignty is the mechanism through which nationalism and the separation of the citizen from the immigrant takes place. Agamben situates in time this differentiation of the citizen from the individual at the centre of the French revolution and the creation of the nation state. “In the system of the nation-state, the so-called sacred and inalienable rights of man show themselves to lack every protection and reality at the moment in which they can no longer take the form of rights belonging to citizens of a state. If one considers the matter, this is in fact implicit in the ambiguity of the very title of the French Declaration of the Rights of Man and Citizen of 1789.”¹⁸

¹⁶ Böhning, R W, *The Migration of Workers in the United Kingdom and Europe* OUP, London 1972.

¹⁷ Not only is this included in the European Community Treaty at Article 10, but the Court of Justice has developed enforcement mechanisms of substantial constraint over the disobedient state – in the form of damages to individuals who suffer harm from the state's failure to implement Community law correctly – C-6, 9/90 *Francovich* [1991] ECR I-5357.

¹⁸ Agamben, Giorgio, *Homo Sacer: Sovereign Power and Bare Life* Stanford University Press, Stanford, 1998, p 126.

This differentiation of citizens from individuals in general as rights holders is central to the concept of sovereignty, tied to the nation state. "Declarations of rights must therefore be viewed as the place in which the passage from divinely authorised royal sovereignty to national sovereignty is accomplished. This passage assures the *exceptio* of life in the new state order that will succeed the collapse of the *ancien régime*".¹⁹ Thus the second step of the theoretical framework is how bare life is transformed into a citizen and becomes the bearer of sovereignty. This is then separated from the individual without citizenship who does not have this characteristic of sovereignty inherent in him or her. In support of this central understanding of the modern world Agamben notes that "one of the few rules to which the Nazis constantly adhered during the course of the 'Final Solution' was that Jews could be sent to the extermination camps only after they have been fully denationalised (stripped even of the residual citizenship left to them after the Nuremberg laws)."²⁰

The concept of sovereignty which is inherent in the citizen creates a fundamental difference between the individual as citizen and as immigrant. The immigrant, by definition does not have the capacity of sovereignty within him or her and thus the rights and guarantees of citizenship can be withheld from him or her. So for example, the UK government could justify to the UK Parliament the introduction of a provision of law permitting the state to detain indefinitely a foreign national suspected of being an international terrorist where such indefinite detention would not be permitted in respect of a British national.²¹ As one British non-government organisation pointed out to the UK Select Committee on Home Affairs in the context of their enquiry into the Act "...what seems to be being suggested by the Government and in this Bill is that we can somehow avoid the usual presumption of innocence which will apply to British citizens and that because these people are foreigners we can lock them up for indefinite periods. The reason that the Government can get away with that is because of the procedures which exist in the Immigration Act. We say that the foreigners who are in this country should be treated no differently from British citizens in the context of indefinite detention, in the context of internment, in the context of a presumption of innocence. Otherwise it seems to me that we are suggesting that somehow people who just do not happen to have obtained British citizenship have fundamentally fewer rights than others."²²

This lower level of rights or indeed the struggle for rights at all is the ground of the difference between the citizen and the immigrant which is the result of the allocation of sovereignty. The right to protect national identity from suspected international terrorists results in the claim of the state to the power legitimately to detain immigrants indefinitely in circumstances where a national could not be detained. A surprising challenge by the UK courts to this difference of treatment came in the form of a decision of the Special Immigration Appeal Commission which found the legislation to

¹⁹ Ibid p 128.

²⁰ Ibid p 132.

²¹ Part 4 the Anti-terrorism, Crime and Security Act 2001.

breach the UK's duties of non-discrimination contained in the European Convention on Human Rights.²³ The decision was reversed on this point by the Court of Appeal.²⁴ However, what is worth noting is that the national court had reference to a supra national norm (which in fact had only recently been incorporated into the domestic legal order) in order to find equality between individuals.

The importance of the distinction between the individual as citizen and as foreigner which is central to Agamben's sovereignty begins to break down when the supra national becomes engaged. The individual as a holder of rights which transcend the state's power of definition is central to the concept of international human rights. The individual has rights because he or she exists in the human rights tradition, not because he or she forms part of the group which negotiated the constitutional settlement between the rulers and the ruled. An important moment in this breaking of the nation state control over rights took place in 1993. In that year Yugoslavia was required to report on its implementation of the International Covenant on Civil and Political Rights, in accordance with the provisions of the Covenant. However, by 1993, Yugoslavia no longer existed and had been fragmented in a number of new states one of which was still in a state of civil war. The Committee was faced with the question: what happens to the rights guaranteed by the Covenant to the individuals whose state no longer exists. The Committee found that the successor states to the former Yugoslavia were under a duty to report on the application of the Covenant rights. The reasoning here is that the rights have become the property of the individuals who enjoy them. The transformation of the state, even in the most violent form of state dissolution cannot have the effect of depriving these individuals of the rights which now belong to them.²⁵

Of course the human rights sceptic will immediately raise the issue of compliance – without mechanisms to force state compliance these rights have little meaning. It is certainly the case that the development of human rights protection works most effectively where there are strong states capable of delivering human rights protection. States which are too weak to provide even minimal rule of law present different problems for the human rights system. Thus there is nothing inimical between international human rights regimes and strong states indeed the latter depends on the former. However, the latter constrains the former. The state is no longer free to treat immigrants in ways which do not fulfil the requirements of the treaties.

The importance of this development is particularly clear in Europe where the European Convention on Human Rights and the supra national court with jurisdiction to receive complaints from individuals regarding breaches of the Convention rights, the European Court of Human Rights, hold the member States in an increasingly close embrace. Article 1 of the Convention states that

²² Quoted at para 25 Select Committee on Home Affairs, First Report, 2001-02 *The Anti-Terrorism, Crime and Security Bill*.

²³ *Ex p A* Special Immigration Appeals Commission, 30 July 2001, unreported.

²⁴ *A, X and Y and Others v Secretary of State for the Home Department* [2002] EWCA Civ 1502.

²⁵ UN Human Rights committee's Decision on State Succession to the Obligations of the Former Yugoslavia under the International Covenant on Civil and Political Rights (1993) EHRR p 233.

the signatories “shall secure to everyone within their jurisdiction the rights and freedoms...” of the Convention. There is no question that the rights contained apply equally to nationals and immigrants, and some of the most fiercely fought cases before the Court have been in respect of immigrants.²⁶

In 2002 exactly the issue of the rights of immigrants to fair treatment by the state came before the Court.²⁷ The case was brought by a family, the Čonkas, Roma of Slovak nationality against Belgium. They applied for asylum in Belgium in November 1998 on account of their fear of persecution in Slovakia by skinheads and others against which aggression the Slovak state (in the form of the police) was not affording them protection. Their applications were rejected in a summary proceeding and they were ordered to leave the state which they did not do. Various appeal procedures were pursued without success. At the end of September 1999, the Belgian police sent the family (and to numerous other Slovak Roma) a notice requiring them to attend at the police station on a given date to enable the files concerning their applications for asylum to be completed. When they did so, they were served with expulsion notices and protocols indicating that they would be detained for the purpose of expulsion. Six days later, they were expelled via a military airport, their seat numbers marked on their hands with ballpoint pen. The family claimed that they had been subject to illegal deprivation of their liberty (article 5 ECHR). The Court agreed finding Belgium in breach of its human rights obligations.

In the Court’s finding, the obligation of states to act in good faith towards the citizen is one of the principles of governance central to constitutional settlements. However, to the extent that the state owes any duty of good faith to foreigners, in Europe this duty goes farther than the protection of those lawfully on the territory and the more general duties to protect the integrity of the person. Through the general principles of the Convention, the Court held that illegally present aliens are entitled to reliability in communications with the state. State actors are not entitled to treat them as criminals, nor are they entitled to use deception to facilitate their detention and expulsion. Respect for the individual is central irrespective of the national rules on legal/illegal presence. The right of the state to define who is lawfully present and who is unlawfully on the territory does not change the nature of the duty of bona fides of the state authorities with the individual.

I have insisted at some length on the specific decision of the European Court of Human Rights on the Slovak Roma in Belgium as it shows most graphically the meaning of the loss of state control over the treatment of immigrants, even ones designated as illegal, through the acceptance of human rights duties which exceed the state. Before a European state can regain the sovereignty to treat immigrants by deception or strategem it would have to withdraw from the European Convention on Human Rights. The British Prime Minister Blair suggested that the UK might consider such denunciation in February 2003 in order for the UK to be able to return asylum

²⁶ For example the case of national security and expulsion of an immigrant: *Chahal v UK* European Court of human Rights 15 November 1996.

□ *Čonka v Belgium* European Court of Human Rights 5 February 2002.

seekers to countries where they feared torture (prohibited under the Convention by article 3). The reaction both within the UK and elsewhere in Europe was swift and extremely negative. Among the issues which such a course of action would entail is that the state would be required to leave the European Union as well.

Conclusions

From Gellner comes the question mark over the essentialism claimed by nationalism. As he puts it, there is nothing inherently human in seeking to be surrounded by persons whom one perceives as being similar or different in origin or indeed in any other aspect. Agamben places this in a theoretical framework of sovereignty – what is the essence of the difference between being a citizen and a non citizen – as the capacity to be a holder of sovereignty and thus the right to define the exception. Escape from the nation state provides the route to an alternative perspective of sovereignty which also permits a way out of the sovereignty trap as regards foreigners.

Societies make choices about how to structure membership and exclusion. These can be placed in opposition – membership limited to persons with certain characteristics which mean they are designated as citizens or not. The choices made by national laws regarding the acquisition and loss of citizenship are very different from one country to another. Or they can be defined as complementary – the choice which has been made in the European Union as regards retention of national citizenship with the addition of citizenship of the Union as an additional status. In the same way, diversity can be presented as a benefit to a society or a threat. The construction of mandatory integration programmes in some countries usually indicates a fear of diversity no matter how much the proponents seek to justify these projects as for the benefit of the “immigrants”. The right of immigrants, nationals of EU Member States, not to integrate to remain distinct, is constructed as a benefit to the whole of the Union, evidence of diversity. The experience in Europe indicates just how easily societies can move from one way of looking at these questions to another. It also shows just how many mutually contradictory positions can be maintained at the same time – integration as necessary from some but not others: a differentiation reflecting other criteria at work for which the nationality category is only a shield behind which to hide other motivations.

The hold of sovereignty over the territory and the treatment of individuals, thus differentiating between citizens, the embodiment of sovereignty, and foreigners, the eternal outsiders, is also subject to transformations. The development of international human rights standards is the clearest of these changes. As I have sought to show, the immigrant can no longer be excluded entirely. Human rights are not only obligations on states but also possessions of individuals, including immigrants. The creation of institutions and mechanisms for human rights compliance has the effect of changing the relationship of the state to sovereignty over the others within its boundaries. While governments may express dismay and anger over certain decisions of supra national courts over human rights violations, there is nonetheless a continuous trend towards ratification of

international human rights treaties and indeed towards the creation of mechanisms for their enforcement. The establishment of the International Criminal Court, notwithstanding substantial opposition from the USA indicates a continuing commitment to the process of supra nationalising the rights and duties of individuals within a framework of human rights.

Cultural and identity security are by no means enemies. They are rather engaged in a dialogue which takes place both within the nation state and increasingly at the supra national level. The development of international human rights law is central to the success of this dialogue. However, even without the establishment of international norms on the protection of the individual, the European Union's history of transforming persons perceived as "immigrants" in need of integration into persons exercising citizenship rights whose diversity enhances the Union demonstrates an alternative approach to cultural and identity security. The embrace of difference as a positive value embodied in foreigners who come to a territory has a history both ancient and modern worthy of greater attention. There are alternative frameworks of value which do not offend culture and identity but rather through respect and inclusion create greater security for both.