

# **Reconciling migrants' well-being with the public interest**

## **Welfare state, firms and citizenship in transition**

Trends in social cohesion, No. 19

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## PREFACE

This edition of Trends in social cohesion, entitled “Reconciling migrants’ well-being with the public interest – Welfare state, firms and citizenship in transition”, raises the important issue of whether, in their host societies, migrants’ well-being can be seen as in everyone’s interests.

The different articles discuss and put forward proposals on ways of reconciling national expectations with those of non-nationals, in societies whose cultures are becoming increasingly heterogeneous. In this way, the Council of Europe hopes that its objective of intercultural dialogue will help to establish institutional and democratic means of securing active recognition of everyone’s right to well-being. The notion of cultural incompatibility must not be allowed to hold sway over the fundamental principle of respect for human rights, under which every individual, irrespective of origin or cultural or religious affiliation, is entitled to recognition of his or her human dignity.

At a time when “security” issues appear to take precedence over “solidarity”, the Council of Europe believes that ways must be found of strengthening confidence in and respect for others, including those from other countries. Only then can we create the right conditions for all concerned – nationals and non-nationals – to live in harmony and enjoy “the right to change”. Denying the right to change leads to rigid societies that are quite incompatible with a globalised world in which the only means of resolving conflicts is dialogue on ways of redefining policies and institutions and of changing our perception of others.

I wish to thank the Social Cohesion Development Division, led by Gilda Farrell, for this publication, which has also received the valuable support of the European Commission’s Directorate General for Employment, Social Affairs and Equal Opportunities. As with volume 18 on the same theme, the contribution and strong commitment of Federico Oliveri, a young researcher from the University of Pisa, is greatly appreciated.

**Alexander Vladychenko**

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## FOREWORD

### **Reconciling migrants' well-being with the public interest**

Reconciling migrants' well-being with the public interest is a challenge that no longer appears to be a political priority in Europe: indeed, the opposite trend seems to be emerging. Instead of fuelling a common interest in a fairer society that welcomes everyone, the demands of people of foreign extraction are presented as a threat to the rights and lifestyles of national populations.

The very expression "migrants' well-being" sounds strange to our ears. It assumes that there is a radical divergence between our interests and those of "foreigners". The desire for a grand design for a Europe that is cohesive because it is sensitive to the well-being of everyone is prompting us to question the grounds for this divergence and to develop alternative approaches. What the authors of this volume have set out to do is precisely to seek areas where the needs, expectations and demands of nationals and non-nationals converge. We hope, by this means, to broaden the scope for a genuine intercultural dialogue in connection with the cohesion and democratic renewal issues at stake in present-day Europe. The idea is to highlight the specific responsibilities of the various institutions, groups and other parties concerned in order to revert from what is a fragmented and frightened society, which is forging an identity for itself by excluding other people, to a fair multicultural society, a pluralistic, mobile society committed to social justice and to acknowledging people's different cultural backgrounds.

The backdrop to this research is the major transformations that have been taking place over the last 20 years or so in the role of the state, labour market trends, the behaviour of companies and the day-to-day experience of citizenship in terms of rights, a feeling of belonging and collective responsibility. These changes are complex and double-edged, being at the same time progressive and regressive. Once we have deciphered this ambivalence, we shall be better placed to understand the extent to which we are directly concerned by the problems of immigrants: the quality of employment, competition, the level of services and the quality of urban life, insecurity, loss of identity, and so on. All these problems,

which the immigrant presence seems to have brought into the societies of the destination countries from outside, are challenges that need our attention. The same is true of growing inequality, exclusion and persistent discrimination, the impoverishment of certain sections of society, including workers, the lack of pluralism and recognition, and disenchantment with democracy and its ability to transform individual risks into shared challenges.

### **Responsibility denied in the name of fear**

It is not new for people to be torn when it comes to recognising the right to well-being of certain social groups. The awareness of a negotiable common good has emerged, particularly in countries where human rights underpin the rules of politics and allow for a balance between economic development and solidarity, not least as a result of struggles for full citizenship. In these countries, the affirmation of equal dignity for all as a principle that must be observed has made it possible, by virtue of the collective responsibility exercised by the state, to refuse outright a person's exclusion. How, then, can we explain why double standards have returned to Europe when it comes to rights, along with more or less overt forms of social irresponsibility towards people of foreign origin? Why is it that Europe cannot succeed in devising a fair immigration policy and often prefers double-speak to a coherent, overall approach to migration?

The justification for denying virtually all responsibility for "foreigners", who epitomise "the other", is usually fear: fear of economic competition; fear that they will take people's places and jobs (including the fear that new arrivals will take the place of earlier waves of migrants); and fear of a decline in order and traditional values. But, in the final analysis, "Who is the other? And who says who is an other?" asks Hans Ucko in connection with the obstacles to genuine pluralism, including religious pluralism. His answer provides one of the keys to unravelling the problems created by the ideological lumping together of cultural diversity – now considered as something essential – and migration issues, which have been reduced to a problem of distance or incompatibility between cultures. "The other", he says, "is a construction. Others make the other. (...) Creating otherness opens up (...) the possibility of marginalisation, denigration and exclusion".

It may seem inappropriate to raise the issue of differences, including cultural differences, in the context of globalisation, the precise purpose of

which is to blur differences in order to recognise just one affiliation: the fact that we all belong to a global market. Moreover, we need to face up to the paradox whereby other people, in particular those who cross the increasingly reinforced frontiers of our prosperous states, come to be seen both as a threat – particularly if they are poor, unskilled and unchosen – and as an opportunity – contributing to increased competitiveness – but rarely or virtually never as fellow-citizens with whom one can generate and share prosperity.

### **Competition, controls, converging irresponsibilities**

In the current economic system, global competition is played out on two fronts, which are far removed from each other only outwardly. On the one hand, investment in knowledge, technology and human capital fuels product innovation and productivity: to this end, management is radically reorganised, with a reduction in the labour force and an ever-growing role for finance. On the other hand, the aim is to achieve high performance by cutting costs, with the focus on subcontracting and the creation of cheap, temporary jobs with less protection than is standard, no real prospects of social advancement or recognition for skills, and a very high turnover, concentrated in sectors with low added value and sometimes in the underground economy.

As was already the case during the industrialisation of the last two centuries, the management of present-day migration is largely based on this logic of competitiveness, to which governments of all complexions are more or less overtly responsive. This leads, on the one hand, to chosen migration, where efforts are made to attract members of certain professions, particularly those who are the best trained and/or in short supply in the country concerned and, on the other hand, to less targeted and increasingly seasonal migration that provides labour for highly labour-intensive sectors that have been deserted by nationals and are more difficult to relocate, such as intensive farming, the building industry, small shops, the catering trade and personal services, including the care of children and elderly people.

The fact that reference is usually made only to economic migration is telling in itself. This utilitarian approach, despite the fact that it seems reasonable from the point of view of the destination countries, is not without consequences for the way in which society perceives immigrants. In addition, by virtue of the control and selection policies used to pursue it, this approach has effects which may actually be highly damaging to

the living conditions of migrants and, in the case of the brain drain, to the development prospects of the countries providing labour.

As Steve Cohen has no hesitation in asserting, those fortunate enough to be selected by these policies are “perceived as being of economic value”: the policy is to reduce the migrant “from a person to a commodity”. The author goes so far as to draw an alarming analogy between the status of undocumented migrants, those who do not meet the conditions for staying and/or working legally in the country, and slavery. This analogy is based on the fact that they are treated as commodities: they have no rights or legal means of defence; they are obliged to work, sometimes for nothing; cannot change jobs or negotiate their often extremely harsh working conditions; are exposed to the risk of being reported, locked up and deported; and have to submit to arbitrariness and violence on the part of employers, who in practice are the people who keep a check on undocumented migrants. Inspections are being stepped up, and yet the victims of exploitation are still not being protected.

The effects of this state of affairs are much wider-ranging than is thought, if it is true, as Emilio Santoro says in connection with Italy, that a large proportion of new immigrants experience long periods during which they live in the country illegally before they can be “regularised”, obtain protection and acquire a degree of stability. These effects are evident in these workers’ employment conditions, which have serious repercussions on their families and which tend to be carried over, depending on the context, to subsequent generations. Longer than average working hours; hourly pay rates that can be up to 50% lower in certain sectors; higher accident rates; more precarious contracts providing less protection; problems in having qualifications obtained abroad recognised; discrimination in recruitment in cases of equally qualified candidates; confinement to an ethnic labour market; slower promotion and the virtual absence of representatives in trade unions – these are only the tip of the iceberg. Moreover, the entrepreneurship that seems to be the driving force for the performance of “ethnic minority businesses” can often, according to Monder Ram, be explained as an alternative to this scenario of exploitation and discrimination. But self-employment is not necessarily an escape from poverty, or a solution to the structural causes of marginality.

Given this scenario, as Pietro Basso says, it has to be accepted that European companies behave in a socially irresponsible fashion towards immigrants. Even the “diversity management” policies on which some companies pride themselves seem to be geared much more to forging an

image of openness for themselves and attracting a multicultural clientele, and hence increasing competitiveness, than to ensuring the dignity of immigrant workers.

### **An ambiguous demand for “security” and “law enforcement”**

The arguments used to play down this state of affairs are familiar. What is the problem if these workers, who are “ready to do anything to earn a bit of money”, are subjected to arduous conditions in the host countries when they know nothing better than the wretched conditions in their country of origin, where their rights are denied anyway? Besides, they are the lucky ones and should be grateful for being able to work and live in a free country, given that “they had no future back in their own country”. In any event, “they are not sufficiently trained” to be properly employed and paid. And, since most of them enter, live and work in the country illegally, in other words without observing the laws of the land, and compete unfairly with national workers, why should they be held up as victims? “We’re the ones who are the victims.” Arguments of this kind, which become clichés repeated by the media and certain experts, help to foster a culture of hostility, which undermines the commitment to equal rights and, even today, provides scope for modern forms of slavery.

On the strength of the fact that controls are being tightened and special treatment is being meted out to immigrants, is a section of Europe’s population beginning to consider it only natural that success in the context of globalisation implies the availability of people of inferior civil status? This is a particularly burning issue, as new immigrants are not the only ones who bear the brunt of economic restructuring and the changing responsibilities of the state and society: these processes have seriously destabilised a large proportion of the working classes as well. Nevertheless, as Laurent Bonelli suggests, what we are seeing is more a “radicalisation of competition for access to scarce resources: unskilled work, housing, social benefits, etc.” than a convergence of the interests of the most vulnerable sections of the population, whether or not they are of immigrant origin.

The demand for security and law enforcement, which inflames debates on immigration and the “failure of integration”, should be taken into account by politicians, but not in a way that is merely calculated to appeal to public opinion. The preference for dealing with social insecurity by means of law enforcement measures, prevents people from becoming aware of the situation, assures elected representatives of a steady stream of votes and, what is worse, stops the groups concerned from organising

themselves in order to consider alternatives on the basis of common interests. Bonelli concludes “it is much easier to think that the working classes are ‘authoritarian’ and demand greater firmness towards ‘delinquents’, single-parent families or ‘immigrants’ than to reflect on the competitive situations in which they are embroiled every day”. In the debate on pensions, one of the issues central to the reforms of the welfare state, immigration is exploited in an equally alarmist fashion, in such a way as to obscure the issue of fairness across the board. According to Luc Legoux, fear that the ageing population will make the system unviable, along with the fear of an “invasion” due to replacement migration, is used to persuade workers to forfeit the income to which the extension of life expectancy entitles them.

The criminalisation of migrants completes this scenario. According to Santoro, it makes it possible to meet two requirements at the same time: firstly, to select a labour force and prepare it for an extremely precarious life and, secondly, to destroy solidarity with those who are breaking the law. In fact, it is not that immigrants have a propensity to commit crimes: it is the fact that they generally go through a period during which they have no lawful status in a country that prompts a spate of offences, thereby generating biased statistical evidence, quite apart from the fact that the courts and the law are sometimes particularly severe with foreigners. The ambiguity of the call for law enforcement is clear if we look at how few resources are allocated to combating the root causes of the underground economy. As Legoux points out, “this type of immigration can never be successfully reduced by tracking down illegal immigrants without genuinely tackling the sizeable hidden labour market that is the main incentive for illegal immigration”.

This ambivalence can sometimes have drastic consequences. As the French author Laurent Gaudé recounts in his novel *El Dorado*, before migrants climbed over the fence at Ceuta and Melilla, they were attacked by those same members of the police force who then called the Red Cross to treat the injured who actually had succeeded in crossing it: in this case, torn consciences went tragically hand-in-hand with a feeling that duty had been done.

### **Imagined “otherness”, exacerbated identities, ignored differences**

Immigrants come to feel different not only because of controls and the fact that they are considered as criminals and placed in competition with

social classes who are at risk of exclusion. Cultural differences, too, play a not insignificant role, particularly when there are legal arguments in favour of full citizenship, as in the case of the second and third generations.

Julia Szalai, for instance, sees a close analogy between the situation of Roma in Hungary and the management of ethnic minorities in western Europe. An alleged cultural difference is used to explain the persistent poverty of Roma, to reject their demands and manage social tension caused by the transition to a market economy. As she says, "by sharply differentiating according to culture, behaviour, diligence and 'aptness', the current arrangement induces harsh competition among the poor". Here we find an accusation that is often levelled at immigrants in western Europe: that of "'misusing' and 'over-consuming' the diminishing public resources". The reality is quite different: the fact is that Roma are channelled towards second-class services and subject to special arrangements that make access to assistance conditional on "proper behaviour".

Cultural differences are not only ethnicised constructs, as in the case of the Roma: they may also be portrayed in simplistic terms, ignored or exaggerated. Ruba Salih addresses, from this angle, the identity of European Muslims, which, particularly after 11 September 2001, was the focus of considerable public alarm, as people denounced the "Islamicisation of Europe", the loss of western or Judaeo-Christian roots, the decline of secularism and of progress towards equality between men and women, and the increased risk of terrorism resulting from cultural laxity. The interpretation proposed provides food for thought: it presents Islam as a strategy which many young European Muslims use to resist "both exclusion and assimilation". Far from nurturing a minority spirit, the aim is to relate the Islamic identity to universal values that are fully compatible with democracy. At the same time, secularism is seen not as something neutral, which in practice tends to reproduce the dominant culture, but as providing scope for cohabitation among equals and the recognition of multiple identities.

The issue of culture as a vehicle for exclusion can also be broached from the angle of indifference. For instance, Michael Bommes wonders whether the various national models of the European welfare state do not create implicit cultural models that discriminate against immigrants. The potential cultural disadvantage in question stems not so much from certain concepts of the family, the individual or responsibility that underpin modern social policies, or from the exclusive loyalty that traditionally binds citizens to a nation, as from the corporatist way in which certain

welfare states operate or “the institutionalisation of the modern life course regime” that occurs in those states, when the life courses in question do not reflect the true situation of migrants. Similarly, Ahmet İçduygu and Banu Senay analyse the limitations of the naturalisation laws, which prohibit dual nationality, or which appear to consider the granting of citizenship to be the final achievement along the path of integration or even assimilation. These approaches do not take account of the actual aspirations of the people concerned, or of the fact that they have a foot in more than one country, and so, as a result, the opportunity to introduce a form of citizenship that is “likely to be empowering for immigrants” is therefore lost.

### **The agenda of an alternative policy**

Efforts to reconcile the well-being of migrants and that of Europe’s population as a whole must not stop at an analysis of the situation. Achievement of this vital goal implies, from the outset, an alternative political vision in terms of content and implementation, one that is capable of mobilising all sections of society – all less secure as a result of changes in the labour market and the responsibilities of the state and companies – in the pursuit of access to full and not just theoretical citizenship.

If, for instance, the viability of European pension schemes is undermined by the crisis in the birth rate, it will be necessary to address the root causes of the phenomenon, and indeed the growing job insecurity and the failings of the welfare state, which are deterring young people from having children. Legoux also suggest checking whether the growth in productivity, once it is more equitably shared, might not offset the decline in the working population for the purposes of financing pensions. If we nevertheless choose to boost Europe’s falling population through migration, it will be only sensible to assure immigrants of much more stable living and working conditions, rather than opting for temporary, unprotected labour. Likewise, if we really want to protect national workers against social dumping, we must change the system of controls and social protection in areas where it helps to create double standards, and address the problem of hidden labour, without penalising those who have resorted to it because they had no alternative.

Where social and labour rights are concerned, we cannot rely on a voluntary commitment on the part of companies. According to Denis Stokkink, examples of the approaches that could initially be simply incentive-based are the promotion of diversity, and possibly the recognition of skills, anti-

racist campaigns, non-discriminatory recruitment criteria, staff diversification and training, improved career prospects and access to positions of responsibility for immigrants, and so on. For its part, the government should urge the private sector to act responsibly by introducing “social clauses” in its own contracts and in competition policies, and by supporting diversity labels, which allow responsible consumers to play their part.

As for its own responsibilities, the government should, according to Bonelli, make a greater effort to ensure that its commitment to ensuring access to social rights for immigrants is consistent with its approach to punishing petty urban offences, which often penalises these same immigrants, or groups that have had particular difficulty in becoming integrated. He considers it necessary to take a comprehensive approach to these new social issues, using suitable instruments that dismantle competition among the disadvantaged by means of comprehensive social policies covering housing, services, schools, and so on, and that go so far as to renegotiate the current development model to ensure quality jobs and effective provision for solidarity.

When looking at the extent to which hospitals are adapted to migrants’ needs, Antoine Lazarus shows how the lack of clarity in the health-care system, with its numerous and varied medical institutions, its red tape, its technical protocols, its codes of conduct and its rules governing the doctor/patient relationship, disorients immigrants, particularly those who are newly arrived. He believes it is these “invisible barriers”, rather than financial and language barriers to communication, that can prevent migrants from exercising their rights – in this case the universal right to health – in a culturally diverse society. It is therefore up to the professionals and institutions concerned to develop cultural competences enabling them and all users – nationals and non-nationals alike – to adapt to each other in a spirit of mutual respect.

Before becoming actual policies, changes of this type take place at local level, on the basis of day-to-day negotiations between immigrants and nationals. As Basso says, for solidarity between the native and the immigrant worker to progress, “it is vital that both workers realise that [...] there is not a single problem that affects the immigrants without at the same time, at least indirectly, affecting the nationals”. At the same time, these forms of political dialogue presuppose the existence of talking partners – hence the vital importance of “the self-activation of immigrant workers and immigrant populations” in all areas where their rights are denied, the purpose of their presence is distorted, their lifestyles are

stigmatised and their special needs ignored. As Cohen points out, without movement of the *sans papiers* “the reality of immigration control would have remained a secret, hidden from public view” and we would not have experienced the solidarity that extended across the various communities in protest against deportations. Similarly, the emancipation of migrant women, particularly when they are subject to very marked stereotypes, as in the case of Muslim women, may, according to Salih, hinge on their ability to establish national and international networks of associations that help them to define their needs and their identity themselves in the public arena.

With the help of the activism of the people concerned and dialogue between them and the institutions, it is therefore possible to reinstate collective responsibility in Europe. What seems almost unthinkable, namely reconciling the interests of nationals and non-nationals, could thus become the driving force for a new generation of policies that are more far-reaching, coherent, participatory and sensitive to the different cultural backgrounds of those concerned.

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## **PART I – MIGRANTS AND SOCIAL COHESION: A PROBLEM OF “CULTURAL DIVERSITY”?**

### **I. Policies for a fair multicultural society. On the use and abuse of “culture” in relation to migration issues<sup>1</sup>**

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#### **1. Migrations and integration through the mirror of “cultural diversity”**

##### *a. The special nature of migration-related differences*

Among the key factors in promoting a society that is capable of ensuring the well-being of all who live in it, as emphasised by the Council of Europe’s “Revised Strategy for Social Cohesion” (2004), are respect for, and recognition of, everyone’s differences.

This commitment seems to go beyond the prohibition of discrimination in respect of differences of culture, language, religious belief, colour, gender, age, national origin, sexuality, ability, etc. The particular features of each individual are regarded as a central dimension of life with which politics, aware of the sensitive nature of the issues at stake, has to cope. And the very idea of social cohesion, which lies at the heart of the revised strategy should not be seen as the result of an absence of differences or as the complete harmonisation of the various social and cultural interests that exist within society: rather, it lays the emphasis on non-violent processes, which enable the highest possible number of different concepts of well-being to coexist and even to converge (Council of Europe, 2005).

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1. This paper reproduces, with some modifications, the final report on the Forum 2006 “Achieving social cohesion in a multicultural Europe”, presented at the European Committee for Social Cohesion (CDCS) of the Council of Europe on 30 March 2007.

The implementation of this project for a pluralist society does, however, come up against sizeable challenges, both conceptual and practical: what differences improve people's well-being and which of them should, by contrast, be minimised because they threaten social cohesion? Is social progress "an increase in our ability to see more and more differences among people as morally irrelevant" (Rorty, 1998: 11) or rather an increased attention towards diversity of populations? How and to what extent should the pluralism pervading society be institutionalised, in terms of tolerance, respect, protection or active recognition of cultural differences? What suitable role might be played by diversity in the reform of social policies, employment and public services, aimed at reducing inequalities and giving everyone broader access to fundamental rights?

These questions, always hard to resolve, are further complicated when the differences at issue derive from migration, or when the debate on forms of modern pluralist democracy becomes entangled with the issues arising from migratory and integration processes with whose management Europe is confronted today, more than ever before. An additional effort seems to be required in order for the value which Europeans usually attach to diversity, and especially to the heritage of their own cultural and national differences, to be extended also to the demands for recognition from immigrants and their descendants born in Europe. Generally, such difficulties have proved themselves quite transient in the case of intra-European migration flows, which have come throughout the 20th century, first from the south of the continent and later from eastern Europe. By contrast, cultural diversity may give rise to lasting social exclusion in the case of people from non-western countries, especially those with a Muslim majority, with whom the European population feels, rightly or wrongly, that the cultural gap is harder to bridge.

*b. Excessive diversity or a crisis of cohesion capability?*

While public authorities and civil society organisations throughout Europe announce their willingness to overcome barriers between countries, social groups and ethnic communities, and while sound common sense accepts non-discrimination and anti-racism as key elements of the European lifestyle, one may legitimately ask: where do the problems of acceptance, which accompany migration-related differences, come from? Are these difficulties the result of excessive migration in recent times, both qualitative and quantitative, or are there other possible explanations? Is there an ancestral, almost natural, fear of others that returns in cyclical fashion with each wave of migration, or are tendencies at work in European

societies which, despite all the positive attempts to integrate immigrants and their descendants on an equal basis, prevent the value of diversity from being extended to them? And, if so, how can we move beyond these trends, avoiding an “identity trap” and instead highlighting the positive contribution that cultural differences can make to the development of social cohesion and mobility in Europe?

The “crisis of identity”, from which Europe sometimes seems to suffer, often rebounds on the presence of immigrants. Nevertheless, this is also related to the profound changes at work since the 1980s in the labour and consumer markets, in political life, the role of the state, public services, schools, the family, the media and, more generally, in the machinery of belonging and collective responsibility. Migration and diversity issues form part of this scenario: moreover if not properly managed, these transformations are likely to weaken democratic citizenship and encourage a return to ethno-nationalist forms of identification and solidarity in opposition, firstly to “others”, and then to “aliens” (Oliveri, 2004 and 2005).

c. *The resistance to multicultural society, between non-discrimination and racism*

The political value of migration-related differences is underlined by certain studies carried out by the Eurobarometer and the European Social Survey between 1997 and 2003. The EUMC Report (2005), *Majorities' Attitudes towards Migrants and Minorities*, which analyses the results of these studies, records an enduring resistance of people, albeit a minority, to multicultural society: about one quarter of the EU-15's population does not share the notion that “the diversity of a country in terms of race, religion or culture is a positive element and a strength”. The same report also notes a significant increase in the number of Europeans (about two-thirds of people interviewed in 2003 as against half in 1997) who are convinced that “multicultural society has reached its limits”. For their part, the former EU candidate countries show similar resistance to the optimistic picture of a multicultural society as “enhanced by their differences”, but are far less convinced that the capacity to accept further diversification has now been exhausted (EUMC, 2005: 11 ff.).

A comparative analysis of the data makes it possible to question the existence of automatic links between the “diversity rate”, represented by immigrants in terms of stock and flow trends, and the “hostility rate” or rate of distrust, towards that diversity and the people in question. As the report says, “the presence of outsiders in the form of nationals of non-

western third countries seems to exert a certain influence on attitudes tending to exclude immigrants, but cannot in itself explain the levels of support for such exclusion" (EUMC, 2005: 22). Neither the countries with the highest levels of foreigners present nor those with the highest growth rates of foreigners coincide exactly with higher rates of "resistance to multicultural society" or of "collective perception of a particularly acute ethnic threat" (EUMC, 2005: 18). The same is true of the converse relationship generally observed between a high concentration of migrants in the urban environment and the higher resistance rate in rural areas (EUMC, 2005: 22-23).

If this is true, then other explanations seem to be necessary. A country's general situation, and in particular concerns about people's living conditions and prospects – in terms of employment, economic growth, confidence in politics, society and the future, feelings of insecurity, etc. – appear to play an important part in the manner in which the presence of immigrants – even if this is not necessarily increasing – is perceived. The fact that high levels of unemployment or low incomes do not automatically spark feelings of hostility either, nevertheless points to the importance of people's perception of the phenomena in question. The report shows quite clearly how certain individual characteristics (age, educational level) or national characteristics (political and social penetration of xenophobic statements outside of far-right groups, the influence of the media – especially if they prefer to convey information which reinforces the image of immigrants as a problem – the impact of the international situation, attitudes to European integration) affect resistance to migration-generated differences and feed a sense of "ethnic threat" (EUMC, 2005: 17 and 24).

Comparing these results with those obtained from another Eurobarometer survey (2003) on non-discriminatory attitudes and on racism, either directly experienced or perceived, we may confirm that "cultural differences" lie at the heart of deep-seated tensions within contemporary European society. These kinds of differences seem to be the area in which hostility towards immigrants can be more openly expressed, neutralising the interdiction of discrimination and the self-censorship of racism. Thus, resistance to multicultural society manifested by a large section of the population coexists with a quite unanimous rejection of discrimination, including discrimination based on racial grounds, but this rejection doesn't correspond exactly to the level of experienced or perceived racism, which is still quite high.

*d. Why should migration-related differences be taken seriously?*

Faced with this very ambivalent situation, we may advance four hypotheses:

- A divide is growing in Europe between a normative awareness based on non-discrimination, democratic feelings and favour for immigrants to have access to equal rights and social opportunities, and a tendency for insiders to exclude outsiders. This divide influences immigrants' living conditions, often marked by disadvantage as compared with the native population in terms of economic status, access to services of quality, security of livelihood, prospects of mobility, social recognition, political influence and participation, etc.
- The "otherness of immigrants", which cultural differences help to stress through their public visibility, plays an important part in these exclusion mechanisms. Defined without the agreement or involvement of the people concerned, this diversity may easily result in stigmatisation, which may be used to demand more controls on immigration or the assimilation of immigrants into the dominant culture, to justify inequalities and antagonism between nationals and non-nationals and to neutralise the divide between democratic awareness and exclusion of immigrants, etc.
- Some migrant communities give political relevance to cultural differences, either because of their internal tensions, or as a reaction to the experience of second-class citizenship. Culture, as a human dimension other than work, may help to reject utilitarian arguments that justify the presence of immigrants only if it produces a gain for the country. Nevertheless, this may take the form of "identity-based withdrawal", something that, in the absence of other viable alternatives to social assertion, ends in imaginary opposition cultures.
- All these "ideologies of diversity" may conceal the structural nature of the challenges facing European societies today in renewing their cohesion: it posits an a priori opposition between the well-being of migrants and the public interest, which impedes the identification of shared solutions to problems.

These hypotheses on the use and abuse of culture in relation to migration help us to analyse the overlaps between two issues, both critical to the future of our pluralistic democracies. On one hand, they clarify the socio-economic and political conditions which enable immigrants and

their descendants to be recognised, and to recognise themselves, as having “the right to have rights” (Arendt, 1986: 295) like every other member of the society. On the other hand, they address the question of the “heterogeneity of the nation” that migrations contribute to stress, that is, the question of the “basis for solidarity” between citizens who have experienced an increase in inequalities and who do not necessarily share the same traditions, the same history, the same language, or the same ideas about life and values.

As a starting-point for this study we have chosen multiculturalism. Despite all its limitations, it remains the main discourse that European societies use when they represent themselves as facing migrations and internal diversification processes. Thus, the assessment of the most questionable approaches to multiculturalism will result in a “fair” multicultural society, based on 10 methodological criteria (see 2 below). A consequent political agenda will be sketched out by developing each of these criteria (see 3 below).

## **2. Critical paths through multiculturalism(s)**

A portmanteau word like multiculturalism covers an extraordinary variety of domains, attitudes to immigrants, notions of cultures (one’s own and that of others), theories about cultural and social conditioning and the overlaps between all these ideas. We ought openly to inquire what kind of multiculturalism best meets the needs of migrants themselves and the cohesion requirements of the receiving societies.

It is possible to distinguish between four fundamental types of multiculturalism depending on whether their advocates:

- believe the different cultures to be the very essence of the groups and individuals making up the society, excluding or monopolising any other dimension in human relations;
- fear cultural difference and consider it to be a problem, either for the host society (crisis of identity, fear of others) or for immigrant communities (backwardness of civilisation, difficulty in or rejection of being integrated);
- recognise the importance of cultural belonging but disregard the material and social conditions that enable individuals to construct it autonomously;

- base their political action on the struggle for full citizenship, as well as fighting social injustice and cultural disqualification.

a. *Assessment of “essentialist” multiculturalism*

The term “essentialist” may be applied to any approach to multiculturalism which:

- attributes to each culture essential, homogeneous features that are non-modifiable, non-negotiable and impermeable to criticism from inside or outside;
- naturally assigns each group or individual to such a monolithic culture, considering its members as faithful representatives, or even as passive vehicles or “victims”, in the case of non-modern cultures, having simply to accept or refuse it *in toto*;
- uses culture as a perfect synonym for “identity”, which fully explains the social and political relations of groups (“ethnicisation”) and thus makes it possible to differentiate, to place in a hierarchy (“racialisation”) and to oppose (“conflict of civilisations”) countries, communities and individuals;
- emphasises the cultural differences of other groups in comparison with the assumed centrality of its own cultural models (“ethnocentrism”), not recognising the differences and potential for change which also affect the latter.

The first and most important objection to this description of contemporary societies concerns the actual idea of culture that it employs, and which seems to ignore the fact that:

- cultures are mobile, flexible, pluralistic entities, subject to challenge from subgroups and to contamination from other cultures;
- no individual is part of a single group or refers to a single cultural model, but is rather the result of variable choices and circumstances, the migrant being by definition “between two worlds” and “between two cultures”;
- culture does not reproduce an identity or a difference that exists in nature, because it itself introduces differences, erecting borders between the inside and outside of the group, between “us” and “them”.

There are other objections to the political implications of this approach to diversity. The first is that of “premature normativism” (Benhabib, 2002: viii) which recognises that a group has collective rights to exist based on a necessarily fixed idea of it, often through the recognition of traditional standards and the funding of community activities. While these measures seek to secure the “right to preserve one’s own identity” (European Commission, 2003: 45), they may, on the other hand, limit freedom inside groups, and primarily the possibility of criticism from minority or dominated subgroups; a classic in this connection is the example of women and their problematical situation in patriarchal groups (Okin, 1999).

Other critics accuse this essentialist approach to diversities of giving rise to:

- “ecological” (Habermas, 1992) or “museal” multiculturalism, because it has the effect of preserving certain features of a culture, which are judged essential at a given point in time, while freezing possible internal changes;
- “corporative” multiculturalism (Benhabib, 2002: 72) because of the risk of bureaucratisation of differences caused by public funding mechanisms or “ethnic quotas” and because of the competition engendered with other communities for access to these resources;
- “mosaic” multiculturalism because of its effect of intracultural isolation of the different groups, who are not motivated to build bridges with other groups or work out a shared political culture with them.

To these risks is added that of an essentialism with a stereotyping or stigmatising effect. In this case, the group’s characteristics are not chosen by its internal majority but are selected and ultimately imposed by the dominant group in society. This version of multiculturalism may take on the relatively harmless, but nonetheless disturbing, character of folklorism, reducing the history of other groups to festive, religious or consumerist events. Furthermore, at a time when biological racism is outlawed but xenophobic sentiments are still nurtured, essentialism may also give rise to a new kind of “culturalist racism” (Taguieff, 1997) which allows rejection of immigrants to be justified in the name of incompatibility of lifestyles and a wish not to assimilate, manifested by populations who are the product of immigration.

This assessment of the essentialist versions of multiculturalism results in three criteria of value in devising alternative policy, namely:

- immunity from stereotypes and prejudices;
- awareness of dominant cultural models, often implicit, and having great discriminatory force;
- sensitivity to all individual diversity, whether chosen (culture, religion, traditions, beliefs, world view) or given (gender, age, abilities).

In general, the guiding principle for these criteria is that “an individual should not be assigned to a cultural, religious or linguistic group by reason of birth [or origin] alone” (Benhabib, 2002: 19): the widest possible margins must be left for self-attribution of identity and cultural self-determination, and also for criticism and the rejection of self-images that are imposed, unilateral, or carry scorn or stigmatisation.

#### *b. Assessment of “frightened” multiculturalism*

The word “frightened” may be applied to any approach to multiculturalism that regards cultural differences, whether essentialised or not:

- as a principal source of the sense of insecurity felt by part of the European population, thus justifying the xenophobic sentiments which continue to be observed (EUMC, 2006);
- as the principal or even sole source of the difficulties of fair integration of immigrants and their children in the host societies, in particular on the labour market and in urban, social and political life in general.

In this connection one might refer to the culturalisation of the social causes of insecurity and inequalities. This often implies a tendency for host societies to deny responsibility for the absence of integration and the culpabilisation of immigrants themselves, who must take at least indirect responsibility for their plight because of the “cultural backwardness” of which they are victims and from which they are unwilling or unable to escape.

The first and most important objection to this description of reality concerns the link that exists between “cultural poverty” and social inequality in general, and in particular in groups that derive from migration. If one ignores this link, one cannot reflect on:

- the depth and complexity of the causes of poor economic and integration performance by certain immigrant groups, which also feed a diffuse state of social anxiety;

- the global nature of social cohesion problems, which equally affect immigrant groups, both within the various subgroups (by age, sex, origin, length of stay, etc.) and the population as a whole;
- the risks of shifting responsibility for exclusion and social anxiety phenomena on to entire groups who are actually victims themselves;
- the economic and cultural costs which flow from the waste of human resources of immigrant origin and the failure to recognise the skills possessed by immigrants and their descendants.

There are other objections to the political implications of this view of cultural differences, treating the latter as an automatic source of problems and so pushing more or less overtly for assimilation into the dominant cultural model. Moreover, once social inequalities and the feeling of insecurity are assimilated to cultural causes, or even to diversity itself, the political capacity or will to confront the structural causes of disparities is greatly weakened. The result is a whole series of interventions to deal with the "culture gap", while too little attention is paid to the social and economic contexts that produce the exclusion of immigrants and their children.

This assessment of "frightened" versions of multiculturalism leads to four criteria of value in devising alternative policy, namely:

- depth;
- globality;
- solidarity;
- valuation of diversity and competences.

### c. *Assessment of "abstract" multiculturalism*

The term "abstract" may be applied to any approach to multiculturalism which requires recognition of a right of belonging and culture, or even the possibility for everyone to choose his own cultural models and what he belongs to, but without any concern for material possibilities (access to resources, social position, political lobbying capacity) enabling him to take full advantage of this formal freedom.

Compared with other forms of multiculturalism, this type of approach is conscious of the risks linked to the essentialisation of cultures and the spread of fear of diversity; for this reason it also prefers a right of belonging focused on individuals and their ability to choose their identities,

rather than cultural rights (Habermas, 2003). Nevertheless, the capability to enjoy these rights of belonging (Sen, 1992), especially in a very inegalitarian and politically very weak context, still remains unclear.

There are other objections to the legal and political translation of this view of cultural differences. The first is that, unless the actual conditions in which the right to be different is exercised are taken into account, the result may be “elitist” multiculturalism (Bauman, 2004), the possibility of developing a rich, chosen cultural allegiance being limited to those with sufficient resources. Likewise, unless the question of leadership is posed in a democratic way, there is a risk that the needs of poorer, dominated groups may remain marginal and that the recognition granted in the cultural sphere may be paternalistic. By contrast, political participation and negotiation appear to be the key factors in giving substance to the formal recognition of a right of belonging and well-being, including questions of material and cultural justice. Further, an integrated notion of well-being ought to become mainstream in every area of policy and be the shared responsibility of all the players concerned, and even the focus of co-ordination efforts on the part of the various players with competence in migration and integration.

In terms of alternative models, the assessment of the abstract versions of multiculturalism leads to three criteria of value in devising policy, namely:

- coherence;
- activism;
- co-responsible co-ordination.

#### *d. The alternative of a “fair” multiculturalism*

An assessment of these questionable approaches to multiculturalism yields 10 methodological principles or criteria that are useful in examining the state of current policies and the degree of commitment to a “fair” multicultural society.<sup>2</sup> Moreover, it is worth noticing that the 10 criteria

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2. We suggest that “fair” can describe each policy that considers legal discrimination, social inequalities and cultural subalternity as three sides of the same system of injustice to be challenged. This kind of policy aims therefore to articulate – rather than muddle, split or oppose – demands for redistribution and recognition raising in a multicultural context (Frazer, 1997).

that articulate the practice of a fair multiculturalism correspond (see Table 1) to the four dimensions of social cohesion, according to the Council of Europe definition applied in the *Methodological Guide for the concerted development of social cohesion indicators*: equity, autonomy, dignity and participation (Council of Europe, 2005).

**Table 1 – Correspondences between fair multiculturalism and social cohesion**

Fair multiculturalism (criteria)		Social cohesion (dimensions)
Depth	of policies	Autonomy
Coherence		
Globality		
Immunity to stereotypes and prejudices		Equity
Account of implicit cultural models		Dignity
Sensitivity to differences		
Valuation of diversity and competences		
Activism		Participation
Solidarity		
Co-responsible co-ordination		

An approach based on this parallelism, between the criteria of a fair multiculturalism and the dimensions of social cohesion, could help every decision maker and any interested party to measure the degree of responsibility he bears in relation to the well-being of migrants and their descendants, and to reconcile that well-being with collective interests.<sup>3</sup> The ultimate aim will be to assess, within a given context, the extent to which:

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3. These criteria could in principle be applied to every sector of politics and society. In this paper, we shall indicate for each criterion the problems that it may address, the principal contexts within which it may be employed and some priority ideas for action. Migration and integration being among the most complex processes with which any society is confronted, the range of institutional, political and socio-economic players involved is particularly wide. Consequently, when the term “responsible players” is used here, we shall suggest that the criteria listed should be adopted by public authorities and institutions of every kind (legislative, governmental, administrative, judicial, police, champions of human rights and equal opportunities, etc.) and at every level (international, European, national, regional, provincial, local and municipal); all private sector firms and players; non-governmental associations, including political parties and movements, media, churches, trade unions and all other “civil society” players.

- immigrants, with their cultural differences, are recognised as being equal in rights and duties and consequently neither stigmatised nor ignored nor simply tolerated;
- everyone from a migrant background has the material and non-material wherewithal to choose and pursue wholly autonomously his course in life, including his more or less critical stance on the society of origin and the host society;
- the specific needs, skills, values, etc. of immigrants are recognised as an integral part of the host society, preserving their dignity and at the same time contributing to the collective well-being;
- the content of policies relevant to them, and in particular provisions for recognising differences, are decided on through participation of migrants themselves in discussion and decision making.

A fair multicultural society is then called upon, through its policies and daily practices, to give everyone the right to live well with his own cultural specificity, within a framework that offers real equality of opportunity, and an underlying democratic culture affording mutual respect, negotiation in the event of conflict and continuous development of the initial cultural models.

In this context, one could speak more generally of a right to feel like and be recognised as a person, including everything that guarantees integrity of life and makes “voluntary self-ascription” (Benhabib, 2002: 21) possible. This would ward off the risk of failure to recognise, only in abstract terms, the right to non-discrimination on racial or cultural grounds and not to develop policies (economic, social or other policies) enabling that right to be fully exercised. On the one hand, integrity of life cannot ignore general conditions in a given society, such as those safeguarded by traditional civil, political and social rights. On the other hand, the practical exercise of these rights makes it necessary to take account of the cultural differences of each individual. So the aim must be to provide, on the broadest possible base, the same opportunities and the same entitlements in terms of rights – in full awareness that, in order to be effective, these opportunities and entitlements must be compatible with individuals’ own characteristics, and indeed with the differences of culture, religion, gender, age, ability, etc. which people themselves regard as essential features of their personality (Facchi, 2006).

Finally, in a fair multicultural society, differences of every kind are neither absolute nor exploited as means of stigmatising and excluding: rather,

they are turned to account in order to open up areas for dialogue where the conflicts on socio-economic and political issues, thrown up by the changes stemming from globalisation, can be managed collectively. Such areas for negotiation are indeed essential in understanding that migrants' demands for diversity, rights and well-being are not opposed to, but deeply correlated with, those of nationals.

### **3. The agenda for a fair multicultural society**

#### *a. Depth of policies*

This criterion answers one central question: do migration and integration policies, including those to combat racial and ethnic discrimination, manage to reach the most profound causes of exclusion of immigrants in the host societies?

The difficulties experienced in implementing the different European "integration models" from the 1990s onwards cannot be understood without reference to the major transformations that have affected the production system, labour markets, the role of the state, families and social institutions such as schools. The depth of policies promoting inclusion and equality of opportunity is measured by this yardstick. For example, the extent to which anti-discrimination measures succeed in changing exclusion mechanisms rooted in the current apportionment of resources, opportunities for social mobility and the skills required by the labour market, has to be verified – a whole series of conditions in respect of which immigrants, and often their descendants too, are at a disadvantage as compared with nationals.

From this standpoint, the familiar problems of immigrants (employment, housing, education, access to social rights) are not tackled as being intrinsically linked to immigration but instead as the result of historical causes and systems that reproduce disparities. The resulting political choices are therefore not simply altruistic or humanitarian with regard to vulnerable groups. While striving to minimise their social unease and inter-ethnic hostility, one is also aiming at general social issues, such as the increasingly pronounced dualism of the labour market; wage polarisation; social mobility deficits that burden the younger generations; difficulties in finding a property to rent or purchase except in certain districts; difficulties in having access to rights; difficulties experienced by schools in teaching skills that are useful to a rapidly changing labour market; the distance between a large proportion of the population and political life; lack of confidence

in institutions and society, and absence of genuine places for negotiation in order to cope with conflicts of distribution and recognition.

In the employment field, for example, the priorities relate to the question of over-exploitation in underground economies, recognition of skills and investment in education and vocational training (see also “Valuation of diversity and competences”, below).

With regard to combating over-exploitation, one might: experiment with more efficient machinery for detecting undeclared work (congruity index between quantity/quality of production and declared working hours, encouragement to self-reporting by victims); provide sufficient resources to combat illegality (strengthen inspectorates); develop incentives (tax breaks and public contracts for firms regularising employment on a lasting basis) and deterrents (monetary and criminal penalties for employers, exclusion from public tenders); minimise other factors which sustain illegal migration (existence of sufficient legal channels, more realistic and flexible conditions of access to countries, combating trafficking); guarantee social minima for all workers, and promote public and trade union awareness of the convergence of interest between national and non-national workers in terms of protection and labour costs.

In the field of access to housing, whether rented or owned, one could: develop concerted public/private strategies to broaden access to the public and private housing markets in terms of cost, availability, allocation criteria, fair ratios between prices, wages and allowances; implement programmes of public construction; and promote redevelopment and modernisation of certain urban areas directly involving the populations concerned (in respect of housing needs but also of skills and labour).

If they are to be effective, however, these measures have to be incorporated into a long-term vision of sustainable development, aimed at competitive production/consumption in terms of quality and inclusive of social and environmental considerations, instead of tending to regard protection as a cost and certain fundamental assets like housing only as a sector for speculation.

### *b. Coherence of policies*

This criterion provides answers to two questions:

- to what extent do policies on migration and integration succeed in managing the multiplicity of fields, competences, players and levels

of action that enter into the definition and implementation of measures concerning immigrants?

- how do the various players prevent incoherence between their different arrangements, negating the hoped for inclusion effects and actually producing a form of systemic exclusion?

The latest *International Labour Migration Survey* edited by ILO explains that, in the 90 countries which took part in the survey, provisions affecting immigrants (immigrant workers) are to be found in 11 different types of legislation, from constitutions to codes of employment, from codes of social security to criminal codes, from immigration laws to bilateral agreements between states (ILO, 2004: 146). The same report highlights the fact that jurisdiction in this sphere is usually shared among various authorities and ministries (ILO, 2004: 147). While immigrants are also part, at least initially, of a different legislative and political system – that of the country of origin – policies concerning them ought to be able to manage judicial pluralism, and even resolve conflicts between different systems of legislation, especially in the fields of family, property and nationality law and the transfer of acquired social rights.

Furthermore, given their status with regard to access and residence (conditional on work and sometimes even illegal) and their actual living conditions (usually worse than in the rest of the population), immigrants often become the prisoners of a network of intersecting conditions between the different policies and legislative programmes concerning them (integration, the labour market, access to housing and schools, social benefits, naturalisation). With the failure of these policies to actively take into account the cultural differences they wish to preserve, there is a high risk of exclusion, which will negate the efforts made to secure equality of opportunity as the foundation of lasting integration.

All the responsible players should check whether or not there is coherence between:

- general principles and specific legislation (for example, in the case of disparity between constitutional rules and international undertakings setting certain standards on human rights and non-discrimination, and ordinary laws or administrative implementing mechanisms, which in fact suspend those same rights);
- declared aims and actual conditions of implementation (for example, in the case of long-term residence permits which, on the one hand,

seek to give a series of rights to lawful immigrants but, on the other hand, lay down access criteria which are in fact impossible for a large proportion of the people concerned to meet);

- existing laws and the institutional structures intended to implement them, and the financial and human resources needed for the effort to succeed;
- the measures taken in the various fields (for example, interacting exclusion effects which operate when the rules governing entry and residence, employment, non-discrimination, access to rights and citizenship, public order, etc. are not properly co-ordinated).

In particular, it might be useful to check whether certain conditions attaching to integration programmes actually produce the expected results or whether they cause unexpected negative effects. Such conditions might include: obligatory frequency; high cost; legal consequences that may even entail non-renewal of the residence permit; a mandatory procedure for access to work and training; measures governing access and residence in the country (testing of skills, prior contract with an employer, high cost and length of procedures, income level required, housing subject to high standards, difficulty of regularising one's situation); access to the labour market (educational qualifications, access to banking services, housing); social benefits (length and lawfulness of stay, advance contributions) and naturalisation (level of income and living conditions, test of language and culture, length and opacity of procedures, denial of dual nationality, loss of acquired nationality in exceptional cases).

### *c. Globality of policies*

This criterion answers a twofold question:

- do immigration and integration policies target the whole of the population or, in spite of the global dimension of the phenomena concerned, are they still sectoral policies which are not at the heart of public action in the long term?
- do these same policies comprise mechanisms that make it possible to detect and treat as fairly as possible all the subgroups (in particular by age, sex, training, legal status, "waves" of belonging) which go to make up the populations of immigrant origin, or do they in fact operate selectively within those populations?

For some time, the receiving countries of migratory flows tended to treat the integration of immigrants as a residual issue, separate from the central channels carrying social cohesion development policies. Thus, employment policies (aimed at quality jobs, particularly for women and the younger generation, worker adaptability to change in terms of training and flexibility/security, certain levels of income and protection in all sectors, etc.), social policies (aimed at a fairer distribution of fiscal costs and resources, pension and social security reforms, creation of more efficient and sustainable tools for combating poverty, availability of part-time contracts and services such as child-minding to enable women to work, etc.) or education policies (improving the quality of education, accessibility irrespective of family income, the link between skills and labour market) should systematically include immigrant populations and those of foreign origin in their intended areas of action.

Finally, there should be awareness that the problems of immigrants are not substantially different from those of the rest of the population, including the negative effects of a lack of qualifications and skills, often interpreted in terms of “foreigners’ cultural backwardness”. Likewise, a balance must also be struck between these global strategies for the development of social cohesion and the specific needs and living conditions of various groups of immigrants – women, young people, “irregulars”, newcomers, those who have been present for longer, those who have been naturalised, nationals of foreign origin, etc.

In particular, it might be useful:

- to consider migration and integration issues as a part of all policies affecting a country’s social cohesion, at all decision-making levels;
- to finance multicultural innovations in public services through structural funds and in the framework of general reform programmes;
- to devise tools for gathering relevant information on different sub-groups using certain legal provisions or certain services, while guaranteeing respect for privacy and non-discrimination with regard to the people concerned, in order to evaluate reforms.

#### *d. Immunity from stereotypes and prejudices*

This criterion answers truly preliminary questions:

- to what extent are the policies and behaviour of the responsible players immune from stereotypes and prejudices?

- to what extent do they themselves contribute, albeit involuntarily, to creating a stereotyped image of immigrants?

Despite the efforts made by integration and non-discrimination policies to ensure that immigrants and their descendants can participate fully and fairly in the life of the host country, the possibility still exists that certain public choices and certain social behaviours may, more or less unconsciously, incorporate stereotypes or prejudices about people of foreign origin. This would effectively negate efforts at inclusion, because any cliché, even when positive, causes distortion in public action and in social life. Furthermore, in the case of prejudices that grow into actual stigmatisation of foreigners, the foreseeable effect is to rob people and groups of foreign origin of the capability of enjoying those rights and opportunities in life to which they are entitled. In these processes, the emphasis on diversity, including cultural and ethnic diversity, plays an important part, which may go so far as to justify differences of treatment by implication and consider this diversity as the sole cause of social exclusion.

The most common categories of stereotype portray immigrants (or, quite simply, those one regards as such) as: a threat; too numerous; the sole source of problems or profit; culturally backward; suspect and antisocial people; and, as such, requiring only extraordinary measures and treatment. All responsible players ought regularly to check that they are immune to this kind of stereotype. This check means, in the following order:

- analysing the substance of common perceptions that may stigmatise immigrants;
- assessing their negative effects, for example in terms of greater discrimination, exclusion and hostility to immigrants;
- reflecting on the root causes of clichés, and motives which foster their spread.

For this reason, it might be useful to check whether certain measures, in particular the most restrictive ones, are really justified in the collective interest or whether they stem from a stereotyped image of immigrants. For example, is there any connection between:

- conditional access for foreigners to national social and health services and the perception of immigrants as coming 'here' to take advantage of 'our' welfare system?

- limited access for foreigners to some jobs, in particular public-sector and high-level ones, and the idea that immigrants lack loyalty to the destination country or are generally less educated than 'us'?
- entry and residence restrictions and the notions that 'we' have too many immigrants, they steal our 'jobs' and they help push wages down?
- special or punitive measures as regards civic rights and the quite common perception of immigrants as criminal or antisocial elements or a threat to law and order and the national interest generally?

e. *Taking implicit cultural models into account*

The question at the heart of this criterion is the following: are the host countries conscious of incorporating into their policies cultural models that may involuntarily constitute obstacles to users with different reference frameworks?

Most European countries are already making considerable efforts to "acculturate" immigrants, and even to assist them in discovering the country's institutional machinery and give them the keys to a better understanding of the social and economic dynamics into which they must fit. Classes in language and civilisation, together with reception and information services, training and advice on finding a job or housing for newcomers, all go to meet these requirements. In the long term, and for succeeding generations, these functions are performed in a more systematic way by the national education system at every level.

Likewise, the rules of the game in a complex society are learnt quite slowly, and the price of incomprehension may be high in terms of exclusion or deviance. This process of learning, which is a key aspect of integration, would perhaps be facilitated and speeded up if it were not just unilateral but if it involved a real "two-way process" between the political and institutional culture of nationals and that of newcomers. For the policies, procedures and public services which govern and ensure the exercise of civic rights and duties in European countries are not neutral: they often embody cultural models (in terms of objectives, target groups, legal principles, values, ideals, national history, etc.) which are more or less implicit for nationals but which, for newcomers, constitute a major barrier, all the more insidious because invisible, to access.

All the responsible players should try, as far as their knowledge of other cultures allows, and applying criteria of effectiveness, to detect the potential for involuntary discrimination which lies hidden in these implicit cultural models, where they may not tally with those of immigrants or their actual living conditions. Access to social benefits or to the health-care system, or the question of performance at school, represents the ideal terrain on which to implement this approach.

For example, as failure at school is recognised as one of the most important causes of inequality of opportunity, it might be useful to give more thought to the reasons for it. While endeavouring to deal with the socio-economic problems of families through specific policies (family allowances, flexible rules on choice of schools, broader involvement of parents in school life, availability of out-of-school activities and help with studies, language classes for parents, etc.), intercultural changes in teaching practice make it possible to “unblock” children, and even allow them to escape from their feeling of foreignness in a setting perceived as too remote from their own values and frame of reference, with the result that they exclude themselves even before they are excluded. This change entails not only introducing new content (historical, geographical and ethnological material relevant to pupils’ differing backgrounds) into the subjects taught or by adding new subjects (different languages and religions): it comprises turning pupils’ intercultural skills systematically to account, starting with bilingualism and the ability to be a “translator” between different cultural systems and traditions, with lasting benefits for the entire class (Manço, 2006). Teacher training in turn, for those in post and for future teachers, should incorporate this kind of approach more often. Furthermore, other professions, such as cultural mediators or psycho-linguistic facilitators, could usefully be involved in school innovation.

#### *f. Sensitivity of policies and services to cultural differences*

This criterion enables the following question to be addressed: to what extent do integration policies and services include cultural differences as a key factor in the success of their action?

The receiving countries of migratory flows have increasingly set in place special services dealing primarily with newcomers. Sometimes these services provide key support in immigrants’ lives long after they arrive. They obviously play an important role in the initial stages, together with new integration programmes offering language courses and information about the country, the labour market and the legislation in force.

Likewise, it is on access to public services in general, in particular those relating to health and social welfare, that the success of equitable integration depends, and this is also true for immigrants who have not had access to integration programmes or who have lived in the country for a long time. The link between these two types of service is crucial: if the transition takes place fairly quickly and efficiently, the autonomy of the migrants using them and their self-inclusion capability increases substantially. Otherwise, the fact of being confined to special services for too long may result in a kind of dependency, poorer in quality than other services, producing inequalities, stigmatisation and exclusion.

The experience of the countries with the longest history of immigration has revealed that obstacles to quality services, in particular where there is a universalist and largely free system, are other than monetary in character: a whole series of more or less invisible barriers have been suggested as the explanation for certain asymmetries. The concepts of “culturally diverse population” or “universal services sensitive to differences” have been developed and applied in response to these problems. In a concern for equality which goes beyond formal non-discrimination and active or even special measures, the main point of this approach is to make services compatible with the constituent features of individuals – cultural, religious, gender-related, etc. – differences which the people themselves regard as essential to their well-being and which, if they are ignored, may negate the effectiveness of the service. The best example of this type of initiative is the hospital that tries to be as immigrant-friendly as possible. Linguistic initiatives are just the more obvious, albeit primary, obstacles to be overcome: a major effort of cultural interpretation, prospect mediation, and effective communication between doctors and patients is needed if treatment is to be effective, with lasting results.

Over and above the benefits to the groups directly concerned, these initiatives often yield an overall improvement in services, which then tend to become more sensitive to the requirements of dignity and autonomy, and even to the different needs and particularities of every individual.

Generally speaking, special services reserved for immigrants should be as temporary as possible. So, it will be helpful to invest in the training of public service staff with skills (linguistic, human, sector-specific) that enable them to respond to the requirements of immigrant populations. It would also be helpful, in all public services, to encourage recruitment of personnel who have experience of migration, something that encourages employment and constitutes a strategy for diversification and innovation

in the service. Given their importance, private sector services should be encouraged to pursue similar processes aimed at open-handedness, innovation and diversification: banks and other financial services, private employment and rental agencies, company consultancies, etc. should be among the first to move in this direction. As regards the health-care system in particular, the following initiatives could be tried out in a growing number of hospitals: multilingual information, translation and cultural mediation services; staff training, including for nurses and administrators; construction of special units to monitor diversity questions, from planning to evaluation of services; channels of communication with users of foreign origin concerning their satisfaction levels; extension of these practices to the entire health-care system, including GPs.

*g. Valuation of diversity and competences*

This criterion answers the question: do integration policies and programmes make use of differences to empower and motivate immigrants, overcoming their reluctance to recognise their capacity for initiative, their values, and their competences – in short, their present and potential contribution to the collective social well-being?

The condition of under-employment or poor employment (low added-value, minimal career prospects, low pay) suffered by immigrants and their descendants in most of the host countries not only imposes a social cost in terms of exclusion and unease for part of the population: it also constitutes a major economic and cultural cost which bears especially heavily on any society that seeks to be innovatory, open and democratic, as European society does. The economic costs are obvious when one considers the waste of human resources that lies behind the figures for immigrant unemployment, in particular for certain groups and subgroups (particular nationalities, women, young people, etc.). No less serious, though receiving less media attention, are the cultural costs arising from the discouragement of immigrants' intercultural and community skills, which are actually two key factors in a global society that is increasingly interconnected and diversified.

In order to implement these observations, we might support: methods of recruitment, which set value on the potential skills of immigrants deriving from their migratory background and cultural differences, either in the public sector (pluralism of services) or in the private sector; recognition of skills and qualifications acquired abroad; recognition of the social value of certain work more or less left to immigrants, such as child-minding

and care of the elderly, in terms of better social protection and training opportunities in the field of personal care.

#### *h. Activism*

This criterion addresses the following question: to what extent do the people concerned have an opportunity to voice their opinions and to organise themselves in order to promote their needs and conception of well-being, including the need for recognition and cultural diversity?

In democratic societies, the people affected by a law or by its effects have the opportunity to influence it through the exercise of political rights and rights of association, or through voter representation and various forms of active citizenship. This is a general principle, but it is nonetheless at odds with the situation of immigrants: prior to naturalisation they are excluded from political rights proper (the right to vote and to stand for election to the national parliament or other political bodies); but even afterwards immigrants may be inclined to abstain through mistrust of the political system, by lack of leadership or the absence of arenas in which they can autonomously voice their interests. However, in many European countries immigrants are very active: almost half of them living in urban areas participate in associations and do voluntary work, despite having living conditions seemingly not very compatible with this type of commitment as regards time and resources. Religious organisations and churches play an important part here in offering a welcome, recognition and a place to meet other fellow nationals.

Associations are often driven by a desire to provide mutual support, maintain allegiances and protect rights; this is especially the case in places where the public authorities have not set up information and guidance services. Having satisfied everyday needs, associations set themselves other aims, such as promoting political mobilisation (on questions of social justice, combating racism, recognition of rights, emancipation of women), the fight against social exclusion, the development of active tolerance and intercultural and inter-religious skills. Moreover, in countries where political participation via the right to vote has produced the most promising results (such as in the Netherlands), associative activism is often the first step towards joining a party and then going on to stand for election (Bozkurt, 2006).

It is hard to overestimate the contribution which participation can make to integration processes, in particular as an instrument for learning how

society functions and as the vehicle for a real sense of belonging. Its importance suggests that the right to vote should no longer be regarded as the end result of a process, but as an important factor in activation, which can motivate and give a sense of responsibility to newcomers at an early stage. Similarly, there are two major obstacles still to be tackled, namely:

- the fact that mobilisation is limited de facto to the micro-level (joint management of public services, local committees, advisory bodies), without real, effective bridges being built towards the national and European levels of decision making;
- the fact that formal rights of participation are not actually exercised due to lack of places for action, either autonomous or inside political parties and trade unions, which have difficulty in coping with the demands of people of foreign origin.

The fact is that, despite their contribution to feelings of belonging and confidence and to the development of immigrants' organisational and democratic skills, the associations in question are often small, with limited resources and focus almost exclusively on local issues (CEMVO, 2005; Beauftragte, 2002; CODRES, 2000). Consequently, the chance of influencing the general, national or European framework in which political choices about immigration and integration matters are made is fairly slight. A change of scale is therefore a real priority for immigrants' associations and their members.

In particular, where political rights are concerned, their acquisition should be made easier (more flexible conditions and faster processing of naturalisation applications) and their exercise could be separated, at least at the local and regional levels, from nationality (as called for in the Convention No. 144 of the Council of Europe). As regards conditions that allow active participation in elections and political life, consciousness-raising campaigns could be run, so that party and union members realise the importance of articulating immigrants' requirements, together with those of the rest of the population. As for the construction of an autonomous leadership capable of broadening the scale of action of existing associations and becoming an interlocutor vis-à-vis the public authorities, consideration should be given to forms of public support targeting information, acquisition of organisational skills and lobbying, reinforcement and networking of existing associations at regional, national and foreseeably also at European level.

*i. Solidarity and a platform for dialogue*

This criterion throws light on three questions of crucial importance in building a fair multicultural society, namely:

- do migration and integration policies nurture the idea, even unconsciously, of a radical conflict of interest between immigrants and the rest of the population, thus undermining the possibility of intercultural and inter-ethnic solidarity?
- in which particular areas could intercultural alliances aimed at collective well-being come about?
- how can awareness that the aspirations to well-being, the demands for rights and the claims to diversity that are advanced by immigrants and by nationals, are not, in fact, in conflict, but rather closely interlock with each other, be brought into the development and implementation of policy?

One of the most deeply negative effects of multiculturalist discourse, which emphasises the cultural and other differences between nationals and non-nationals, is that it thwarts all serious efforts at intercultural dialogue that are not abstract but concrete, and focuses on the underlying issues and conflicts of present-day society. This kind of discourse reinforces an idea – and one that is gaining ground – of rights, especially social rights, as a fixed set: according to this view, whenever rights are extended to newcomers, the rights acquired by others would necessarily be curtailed. This overlooks the fact that, in recent times, the recognition of claims and needs previously excluded from the public sphere (a typical example being women and the working classes) constituted an important factor for social progress (Bobbio, 1990). If one accepts that migration is an irreversible fact in European societies, it will be helpful to tackle it by increasing the resources available and reviewing the criteria for allocation and distribution rather than by waging silent war on insiders as against outsiders.

If it is not to remain pure theory, intercultural dialogue should reach out beyond religious differences or customs and take the form of platforms for social and political dialogue, collaborating in a sustainable manner with all concerned decision makers. In this quasi-institutional context, it would be possible to build alliances between national and non-national workers and consumers on questions of collective interest such as:

- maintaining high standards of legal protection for all workers, avoiding both social dumping and exploitation of the most vulnerable people;
- combating tax and contribution fraud and undeclared work more generally; this would make it possible to reduce opportunities for the exploitation of national and non-national workers and the related “magnetic effect” on illegal migrants, and to recover large sums of public money;
- wider access to housing, whether rented or owned, fostering access to the property markets and urban mobility and countering tendencies towards involuntary ethnic concentration;
- intercultural reform of public services (see “Sensitivity of policies and services to cultural differences” above).

It is nonetheless necessary to be aware of the difficulty of creating bodies representing all sectors of groups and populations, especially if one wishes to avoid a situation in which political or religious elites control these representative bodies, promoting their own interest and lifestyles to the detriment of internal pluralism. It will thus be crucial: to devise mechanisms for the democratic, transparent selection of participants and member organisations, providing for accountability to the communities concerned and collective evaluation of results; to create awareness of this kind of initiative among the general public and the media and, more generally, awareness of the value of intercultural solidarity rather than competition among the various groups.

#### *j. Co-accountable co-ordination*

This last criterion answers two questions that are crucial to so complex a subject as migration and integration policies:

- do the various players involved, in developing and implementing these policies, manage to co-ordinate their activities, from the objectives to the legal/political instruments employed and the actual apportionment of competences, while avoiding duplication, conflicts of authority, administrative vacuums and contradictory procedures, which cancel each other out?
- do these same players have the means of monitoring and solving this kind of problem in the framework of clear co-accountability in

relation to a shared objective, that is, the well-being of migrants and of the entire population?

The ILO's *International Labour Migration Survey*, mentioned earlier in connection with policy coherence, also highlights the fact that competences in this field are usually shared between different authorities and ministries (ILO, 2004: 147). The need for co-ordination of initiatives is more and more clearly felt, at every level of public action. It is useful to point out the recent change in Community institutions in this connection. Moving beyond the simplistic image of integration as a "local" issue, the European Union is also beginning to see it as having global implications, especially in the event of failure: "the inability of a single member state to implement successful integration policies may have negative consequences for the Union as a whole" (European Parliament, 2006).

In order to stress the co-accountable co-ordination of the actors concerned, it will be crucial: to broaden institutional opportunities for concerted co-ordination between the various players concerned by migration and integration questions; to assess the usefulness of joint committees or other mechanisms for monitoring co-ordination and solving any problems and to accelerate the convergence of systems for gathering and analysing the relevant data, including the construction of shared indicators and guidelines for developing and evaluating policies.

## **Conclusion**

Developing ideas and policies for a fair multicultural society entails some significant changes of perspective, which should be highlighted in the conclusion.

### *What integration?*

We should begin by giving a clearer and more substantial social and political content to the very vague and highly ambiguous word "integration". So-called integration policies are usually concerned with reception of new migrants, especially in the matter of language, guidance or even civilisation courses and help with day-to-day acclimatisation, as well as vocational training courses geared to the labour market. This aspect is useful for migrants, because it offers minimum frameworks within which to find one's bearings in a new context. Nevertheless, the introductory, preliminary character of these measures and the philosophy that underlies them, together with the sometimes compulsory nature of the courses,

with consequences for residence and working conditions (Carrera, 2006), has often been described as a limitation that should be removed.

In the broad sense of the term, any policy aimed at the well-being of immigrants and their descendants as part of a collective European interest in social cohesion, should actually be defined as a policy of integration.<sup>4</sup> This view corresponds to the desire to move on from a definition focusing on sectoral policies or on the intention which guides their implementation (assimilation, acculturation, learning the local rules, transmission of meaningful information for a new life, etc.) to the expected effect, or even the result for the whole of society. Taking cultural differences into account is part of that effort.

### *The question of cultural differences is a political one*

We should finally come to consider differences – whether cultural or other, whether migration-related or not – as a key element for everyone’s well-being that does not, in itself, pose a problem, but that can do so through the manner in which it is understood and institutionalised. To repeat what was said earlier: what can influence social cohesion positively or negatively is the political use that is made of it; or even the manner in which differences are incorporated into various political measures and into the building of the national community, into the collective perception and into the specific historical context in which this process takes place, and the social position of the people and groups who are its main force. So it may be said that we are all multicultural, in the sense that we are aware of living in a pluralist social setting: it is different, and far more important, to decide what conclusions we draw for politics and everyday life. The purpose here is to produce a change in the use made of migration-related diversity, so that from being an obstacle and a threat to social cohesion, it becomes a key factor in the well-being of immigrants and the success of policies, fully in accord with the common interests of the host society.

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4. The Council of Europe Parliamentary Assembly, which from the very outset has paid constant attention to the social inclusion of immigrants, has reaffirmed its vision of Europe as “a multinational and multicultural society, where immigrants take part as equal members, on the basis of equality of rights and opportunities in return for equality of obligations, whilst respecting the rules of democracy, cultural diversity and the rule of law” (Recommendation 1625, adopted on 30 September 2003).

### *We are talking about ourselves*

It should also be borne in mind that the changes witnessed do not come from outside; we are also faced, perhaps as a matter of priority, with the internal problems of European societies – transformations in the labour market and prospects for social mobility, reforms of the state, demographic imbalances, the changing role of families, obstacles to democratic participation (Sassen, 2006). If cultural differences, whether perceived as a fact of nature to be brought under control, a resource to be explored or a threat to be contained, are at the heart of Europeans' preoccupations, it is also because they are seen as an issue that transcends migration alone and this raises the question of the kind of society Europe wants in future; one based on what values and what rights, built around what identity, united by the strength of what cohesion and what solidarity, etc. Moreover, it is also true that "the treatment we accord to foreigners and others among us offers a splendid testing-ground for checking the moral conscience and capacity for political thought of liberal democracies" (Benhabib, 2002: 178). Awareness of this veritable "mirror effect" is one of the fundamental conditions for achieving a new "citizenship pact" including nationals and non-nationals, locals and people of foreign origin, etc.

### *"We" and the "others"*

What is needed is a gradual change in our perception of others and our relationship with them; moving from the rhetoric of competition towards a more mutually supportive, cosmopolitan view, which replaces the struggle for what are imagined to be increasingly scarce resources by a much more co-operative attitude, one more geared to the building of alliances and aimed at a society that is more welcoming and more civil towards everyone. The case of employment rights is quite paradigmatic and will recur in the following pages: instead of regretting unfair competition over costs and wages, a commitment to universal levels of protection would likewise be helpful to everyone. This also presupposes that we do not regard immigrants as "targets" or "passive recipients" of our political initiatives but rather that we allow them to become full partners in matters of more direct concern to them, and ultimately also in all societal questions. Basically, the change required is to move away from a stereotypical image, which sees the interests of immigrants and those of nationals as essentially irreconcilable, instead of waking up and cultivating their profound inter-relationship.

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## II. Religious pluralism and social cohesion: making religions an element of mutual recognition

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Cardinal John Henry Newman is reported to have said, "Oh how we hate one another for the love of God". This is the way the cookie crumbles in the world of religions. There isn't much space for other religions on the horizon of any single religion. Religion is basically chauvinistic: our tribe matters. And in relation to God, we prefer to think of ourselves as the pet of God. God loves me. Yes, he loves all and everyone but he loves me a little bit more. When push comes to shove, it is my religion that is closest to the heart of God.

In one way or another, every religion expresses why it is superior, best, the only way. The verses in the New Testament that are most quoted by Christians wanting to look for a scriptural weapon against any appreciation of religious plurality and inter-religious dialogue are Acts 4.12: "And there is salvation in no one else, for there is no other name under heaven given among men by which we must be saved"; or John 14.6: Jesus said to him, "I am the way, and the truth, and the life; no one comes to the Father, but by me". For a very long time, the dictum by Cyprian, *nulla salus extra ecclesiam*, "no salvation outside the church", summarised how the church looks upon other religions.

Judaism, certainly more tolerant than Christianity when it comes to religious plurality, looks upon other religions as "you don't bother us and we won't bother you", but nurtures nevertheless the conviction that, as the prophet says: "Thus says the Lord of hosts: in those days ten men from nations of every language shall take hold of a Jew, grasping his garment and saying, 'Let us go with you, for we have heard that God is with you'" (Zechariah 8.23). In the end, the Jews were right.

Islam, too, thinks of itself as the final revelation and God's original intention for humankind. Thus, every child is born with a natural belief in Allah and an inborn inclination to worship Him alone; in Arabic this is called the *Fitrah*. If the child were left alone, he would worship Allah in his own way, but all children are affected by those things around them, seen or unseen. The Prophet reported that Allah said, "I created my servants in the right religion but devils made them go astray". The Prophet also said,

“Each child is born in a state of *Fitrah*, then his parents make him a Jew, Christian or a Zoroastrian, the way an animal gives birth to a normal offspring”.

Buddhists will claim that their way exceeds religion. Buddhism is a way of life, a philosophy, a psychology, a way of thinking, through which we may ourselves take on the responsibility of determining how our life-bearing *kamma* (karma) will work out for us.

Hindus will have no problem welcoming Jesus into the Hindu Pantheon. There is no difference. All the different rivers flow into one ocean.

I have highlighted one aspect of religious traditions, that shows them as seemingly unable or unwilling to provide much space for other religions in their own right. There is, in this reading, not very much space for mutual recognition. This being said, there are, of course, in every religion traditional texts, which in different ways speak of respect for “the other”, thereby recognising another religious tradition; but on the whole, the other remains in the margins of religious traditions.

A multi-faith think tank, “Thinking Together”, co-ordinated by our office in the World Council of Churches, worked for some time on the whole concept of the other. The very word has an ambiguous ring about it. Who is the other? And who says who is an other? The very notion of the other is in itself problematic. The other is not in his or her own eyes an other. The other is a construction. Others make the other. Someone says that I am an other but I am not an other. The other is created. Creating otherness opens up the possibility of marginalisation, denigration and exclusion. Isn't one of the elements of the violence in our world that of “others' making”? Our religious traditions have contributed to making particular groups into others. Xenophobia is familiar in the world of religion and co-exists in a strange way with the exhortations, commandments, reflections and words of wisdom calling upon us to respect, to love, to see the other as a significant other, to “philoxenia”, the very opposite of xenophobia, to have respect for the other.

What would it take for religions to engage in a sincere process of mutual recognition, either recognising each other or working together towards a society in which the other is a significant other and not a problem to overcome?

Although it is true that religious plurality is as old as religion itself, it is equally true that parts of the world have only recently had to live in

situations of religious plurality. But also in those parts where Hindus, Muslims and Christians lived side by side, it did not go without saying that there was more interaction than just living side by side in communities, and although this was already an achievement, it didn't mean that those of different religions interacted or mutually recognised each other. Our part of the world has, until quite recently, at best lived with minorities of other faiths. In some places, more significant minorities, in others the Christian faith completely dominated the landscape. I recall from my country, Sweden, a woman telling me that she had never seen a Jew. Well, she said, maybe once, but it was only from a distance as he passed by.

Today the situation is very different, and we ask ourselves questions about the creation of a religiously and culturally plural Europe, about mutual recognition, about the parameters for our living together in mutual respect. How do we build a new Europe of Christians, Muslims, Hindus, Buddhists, Jews, agnostics, people of no religion and people creating their own religion? How should a European Union constitution be designed? We have the choice between two alternatives: either it is a *fait accompli* or *tabula rasa*. If *fait accompli*, then the table is set, the menu is printed and the others have to take it or leave it. If *tabula rasa*, then we begin from scratch and construct a new Europe together, tapping the resources of the many traditions and cultures that are present in the construction work.

Can religions recognise each other and can they be instrumental in furthering a mutual recognition of people of differing religions? First of all, religions are not agents. The agents of religion are the people.

Religion speaks to some of the deepest dimensions in our lives: sentiments of belonging in relationships, of a past, a present and a future. Religion gives sense to important dimensions in our lives: when we are shattered; when we are hopeful; when we live through an event in the heart of our community or family that needs the expression of something more than we alone can achieve – a religion to provide the almost cosmic weight we need to give to particular events in our lives: a child is born, we become adults, we marry, we have to say a final goodbye to someone, etc.

A religion cannot be streamlined in order to fit like a glove. But religions are not static monoliths; they are alive and therefore have to adapt to suit life.

Religion used to condone and even encourage slavery until one day, people began to campaign for an end to an inhuman and undignified way

of treating other humans. It took some time before religion followed suit and became a beacon in the fight against slavery.

The last 100 years have witnessed a movement that could no longer tolerate women being looked upon as the spare rib of men, second-class citizens without even the right to vote. The struggle for women's rights was not perhaps born within religion, and religion is, here and there, still struggling against the full emancipation of women. But the door has been opened to full equality of men and women and it is given religious sanction.

Today, communities and religions themselves are faced with religious plurality in a way that we have never experienced before. Religion didn't evaporate in the world, as many thought some 50 years ago. It is back in the public domain as a problematic intensifier of political conflicts. No religion is an island and the question of religious plurality can no longer be responded to with exclusivism and "othering". To be religious today is to be inter-religious. We are already seeing that people in Europe, although perhaps not so keen to believe in the set menus of the established churches, still have not given up on religion altogether. They may recompose religion, making it relevant for their needs. Perhaps they are drinking from two religious sources at the same time: Christians living with Buddhist meditation or Hindu yoga, etc. They believe, even if they are not belonging. And they prefer to talk about spirituality and not to be co-opted by traditional religion.

Anyone who has a realistic assessment of the world we live in would see the urgency of a wider ecumenism of religious traditions. Historically, religious traditions have contributed to the fragmentation of the world. Often, their history has been marked by rivalry, mutual exclusion, conflict and outright wars. Although the complexity of what is called religion and the constant abuse of religious sentiment and fervour by political forces should sober our judgment, many feel that even today religions play a contributory role in violence and conflicts in the world. In any case, a number of religions do continue to make exclusive claims that, in effect, invalidate other ways of believing and being. We are more and more aware that the problems we face in the world cannot be resolved by any one religious tradition. Most of the world's problems are not Christian problems needing Christian answers, but human problems requiring the collaboration of many. We are also increasingly aware that, in their diversity, religious traditions have much to contribute to the enrichment of each other. More and more people are looking for a spirituality that is not

sectarian but holistic, a spirituality that opens their hearts and minds to others rather than separates them from others.

In other words, we are longing for a world in which all religious communities would contribute to the well-being of all, a world where religions become not yet another force of fragmentation but a source of healing, a world where religions, in all their diversity, would work towards creating a human family that has at last learned to live in peace and harmony.

What does it take? We are used to emphasising that we are the best, now we need to find other perspectives in Christian, Jewish, Muslim, etc. self-understanding. We need to realise that all sacred religious texts display the same ambivalence about war and peace, self and other, etc. Arguing within the context of the Muslim sacred scripture, the Koran, Khaled Abou El-Fadl has provided a cogent response to this question. "The meaning of the text", he contends, "is often as moral as its reader. If the reader is intolerant, hateful, or oppressive, so will be the interpretation of the text". The point is that all sacred texts provide possibilities for intolerant as well as tolerant interpretations. The challenge for religious and spiritual leaders is firstly to acknowledge this, no matter how distressing it may be, and then to find authentic ways of dealing constructively with these texts, symbols and rituals that denigrate the other and legitimate and sacralise violence.

There is, in every religion, an expression of respect for the stranger, a commandment to be hospitable, since hospitality in many cultures and religions is a holy duty, closely linked to the right to asylum of and respect for the stranger. It is a sacred duty, not just a matter of courtesy, to welcome a stranger. Hospitality is a universal archetype, where the openness of the heart to the other matters much more than what we actually are able to offer. Etymologically, the root of the words "host" and "hospitality" goes back to the Latin *hospes*, which means both guest and stranger. In other words, our language reflects the oneness of the provider and recipient of hospitality.

Isn't it strange that hospitality and hostility are so similar to each other at least as regards letters and sounds? Our history is full of examples where people of other faiths were not received with hospitality but with hostility. Our times also bear witness to how people of one religion are being pitted against another people and their religion. Our times also bear witness to religion as an intensifier of conflict. In such situations hostility, and not hospitality, proliferates.

The biblical tradition shows this in many passages and stories, such as Exodus 12.49, “The same law shall apply to the native as to the stranger who sojourns among you”, or Hebrews 13.2, “Do not neglect to show hospitality to strangers, for by doing that some have entertained angels without knowing it”. The quintessential story of hospitality from the Hebrew Scriptures is the story of Abraham, who was sitting in the opening of his tent in the heat of the day when he saw three strangers approaching. He didn’t wonder what they were doing there or wait for them to approach – he got up and ran to them. “My lord, if I find favour with you, do not pass by your servant. Let a little water be brought, and wash your feet, and rest yourselves under the tree. Let me bring a little bread, that you may refresh yourselves, and after that you may pass on – since you have come to your servant” (Genesis 18.3–4).

Hospitality not only possesses a strong component of recognition and respect, it means, in the deepest sense of the word, welcoming outsiders into one’s personal space, where a sacramental relationship is established between the host and the guest. There is the insight that all people, known and unknown, could be messengers of God and even, God himself.

Our context is meeting people of other faiths in an attitude of hospitality. There are many similarities between hospitality and dialogue, but hospitality is more than dialogue. While it is true that dialogue signifies openness to listen and to talk, historical and cultural constraints are limiting factors. Hospitality is more; it is allowing the other to enter our home or allowing us to enter the home of the other. Hospitality is offering food and a place to rest to the stranger. Hospitality has therefore to do with ethos. It goes beyond communication in words.

We receive the stranger because we are both, whether host or stranger, part of humanity. Religion is an intrinsic part of humanity. We cannot drive a wedge between being human and being a person for whom religion matters. When we invite the stranger to sit down with us we may, in front of us, have a person for whom truth and wisdom, love and holiness is nourished by a vision or experience of God, which in one or in many ways may be totally different from our belief, commitment and devotion. If we want to be truly hospitable, we cannot keep at a distance the other’s religion. We cannot define the other. The other defines him or herself. This is the only way we can listen to the other, speak to the other, be encouraged by the other and give support to the other.

## **PART II – MIGRANTS, DIVERSITY AND CHANGES IN THE WELFARE STATE**

### **A. Insecurity of migrants – controlled by the state, feared by the community**

#### **I. Modern migrants and new slaves. How the UK welfare state denies well-being, enforces immigration control and creates slavery**

*Steve Cohen, No One Is Illegal<sup>1</sup> (UK)*

*“Three nationals of south Asian countries who entered [the UK] on legal permits to work for an employer in the manufacturing industry were threatened with violence when they refused to accept their working conditions. They were required to work 12-hour shifts from Monday to Friday and a 9-hour shift at the weekend followed every day by cleaning the employer’s private residence. Their employer refused to negotiate and threatened to deport them. When they eventually managed to escape from him he contacted the Immigration Service to inform them that they were in the UK without work permits.” (Anderson von Rogaly, 2004: 37).*

### **Introduction**

The 1807 Abolition of the Slave Trade Act outlawed this trade throughout the British Empire. In January 2007 the British Prime Minister, Tony Blair, hosted a commemoration of the bicentenary of this historic Act. At this ceremony he acknowledged that “People and child trafficking is

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1. No One Is Illegal is a UK group opposed to controls in principle. Its website is at [www.noii.org.uk/](http://www.noii.org.uk/)

an abhorrent form of slavery that we are committed to tackling”.<sup>2</sup> The central thesis of this paper is that modern slavery cannot be “tackled” without examining and questioning the very existence of immigration controls and their relationship to the welfare state. These are not the only causes but they are significant causes of modern slavery. Trafficking is just a symptom. But, of course, no British Government is prepared to embark on this line of reasoning. No government is prepared, to use the title of one book arguing against controls, to start *Thinking the Unthinkable* (Harris, 2002).

The British welfare state, both from its pre-history (starting with the great Liberal reforming government of 1906) to its attainment post-1945, has had a reputation for humanitarianism, universalism and inclusivism. Just the opposite is the case. The welfare state was founded on the principle of a most narrow nationalism. From its commencement, it combined a virulent form of immigration control with a restriction on benefit entitlements based on a form of immigration or nationality or residency status (Cohen, 2001 and 2003). Starting with the Aliens Act of 1905<sup>3</sup> (aimed against Jews fleeing the pogroms of eastern Europe and tsarist Russia) there has been a century of exclusion from either the state itself or, if entry to the country has been obtained, exclusion from the social and welfare provisions of the state. It is not an accident or a trivialisation that much legislation and institutions of the welfare state have been prefaced with the adjective “national”. This is a profound description inasmuch as it is designed to exclude from access those not regarded as appropriately national. A classic example is described below – namely the National Health Service – which is usually seen as the bedrock, the fundamental apparatus of the welfare state.

The welfare state has itself seen massive “restructuring” (that is, cutbacks and privatisation) first under the Thatcher, and then under the Blair government. Education is another obvious sphere – with the abandonment of free university education through the imposition of tutorial fees and the withdrawal of student maintenance grants. This has concealed another restructuring which was, in essence, completed by the Labour government in 1999 – namely the virtually complete removal from the welfare state of those people subject to immigration controls (that is, those who

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2. Government press release, “PM pledges to fight modern day ‘slavery’” (23 January 2007).
  3. The Act, passed by a Tory government, only came into force after the Liberals came to power.

were not British citizens or European citizens – though the latter also sometimes have only limited entitlements). And it is this removal from the welfare state that has now allowed for the next phase of the attack on the most vulnerable segments of migrant labour – an attack which reduces such labour to virtual slavery. Moreover, because the immigration status of all migrant labour is, to some extent or another, transitory and precarious, all migrants are potentially vulnerable to this reduction in status and conditions. All face slavery.

## 1. The shift in controls

The targets and therefore the mechanisms of British immigration control are changing. Today, we are witnessing an attack on migrant workers – whether documented or undocumented – precisely in their role as workers. There is no longer the pretence of demonising these workers as “bogus refugees” or whatever other negative category or stereotype is or was used to justify controls. In fact, the assumption over the last two decades, with the break-up of the old Soviet empire and the creation of a “new world order”, that immigration control can be reduced to the control of refugees, has always been superficial and fallacious. It has mistaken appearance for reality. For instance, even in this period, the number of refugees denied entry or stay in the UK has always been less than 50% of the total of those so denied. In 2005, the last year for which full figures are available, the total number of people removed from the UK was 58 215 (including those initially refused entry at a port). Of these, only 13 730 had at any time applied for asylum (Home Office, 2006a: 6). Ten years earlier, in 1995, there had been 25 210 removals 3 170 of whom had applied for asylum (Home Office, 2006a: 85).

In immigration control, the issue has always been wider than that of asylum seekers. People subject to removal have come and want to stay in the UK for quite diverse reasons – for instance, family reunion, marriage, study, work, medical treatment, tourism. Because of the visa requirement system, most of these do not even get to the UK, but are refused permission to enter by British Entry Clearance Officers. In the financial year 2002/2003, there were globally 249 830 refusals, climbing to 483 457 in 2004/2005.<sup>4</sup> Throughout the 1990s and the turn of the millennium, refugees were simply the latest but not the only demons of politicians

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4. *Hansard* 16 February 2006, column 2329W. Full statistics are produced on the UK visa website: [www.ukvisas.gov.uk](http://www.ukvisas.gov.uk) (“Entry Clearance: Facts and Figures”).

and the popular press. At other times and in other periods there have been other demons. For example, in the 1920s it was communists in general and Jewish communists in particular (Cohen, 2003: 175-187). In the UK throughout the 1970s and 1980s, there was a systematic attack on husbands from the Indian subcontinent who entered into arranged marriages (these being denounced as “marriages of convenience”) or the children of such marriages, particularly when born in Bangladesh, where there was no documentation (these children being rejected for entry on the basis they were not “genuine as claimed”) (Cohen, 2001). Of course, the justification for the exclusion of these men (and these children) constantly veered between the most racist stereotypes and the nationalist accusation that they were only coming to the UK to take “our” jobs. However, the mechanism of exclusion was to create and then invoke the immigration rules dealing with family unity – rules actually designed for family disunity. The classic example was the so-called “primary purpose rule” – where the applicant had to disprove the double negative that he was not marrying in order to live and work in the UK. However, what is happening today is that the state authorities are no longer preventing the entry of workers or future workers indirectly through these, or analogous family rules. Instead, migrants are being attacked directly under rules and mechanisms relating specifically to them. The exclusionary role of immigration controls means that workers are being attacked as workers.

This attack has meant that there has also been a shift of emphasis in the locus of immigration control for those who have entered the UK. Enforcement is now shifting from the streets and the homes to the workplace and the factory floor. There have always been factory raids. After a series of such operations in 1980, the Transport and General Workers’ Union and the General and Municipal Workers’ Union issued a joint statement saying that black workers would “have to carry at all times their papers proving their right to live and work here. This is a situation more reminiscent of the apartheid system in South Africa than of Great Britain”.<sup>5</sup> However, enforcement in the workplace is now systemic. It is institutional. It has full legislative force. And the agents and enforcers of controls are becoming employers. They are the managers of new Labour’s “managed migration”. In fact, this role began even before new Labour. It began with the 1996 Asylum and Immigration Act – which imposed criminal sanctions on bosses who employed those without the correct documentation. But the real targets of these sanctions were never intended

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5. *The Guardian*, 7 July 1980.

to be the employers, but rather the undocumented, the *sans papiers*, the “illegals”, whose immigration status they were expected to police. Rather than actually criminalise bosses, the intent was to transform them into partners in control through the fear of criminalisation. And the statistics speak for themselves. For example, in 2004 there were 1 098 “successful operations” (that is, raids) by the immigration service, which resulted in the arrest of 3 332 workers – but also in the successful prosecution of only eight employers! In the previous year, only one boss was successfully prosecuted, but 1 779 workers were arrested, removed from the workplace and presumably deported.<sup>6</sup> The significance of this co-operation in immigration control enforcement between employers and the immigration service is shown by the quotation at the beginning of this article.

The anxiety generated in some employers (and therefore the consequences on potential employees) by employer sanctions cannot be exaggerated. It has sometimes led to bizarre and ironic results, not least amongst non-government agencies purporting to help the undocumented. For instance, one such agency (Save The Children, North West and Yorkshire Team) advertised for a post to encourage the self-advocacy of refugee children. The job advertisement described the post in the following terms: “To succeed in this post you will have experience of group-work and self-advocacy methods with young people and/or support work with young refugees and an understanding of children’s rights and ways of working with young people which promote involvement, participation and empowerment. You will also need a basic understanding of the current social situation impacting on refugee young people’s rights”.

Unfortunately, the laudable aims of the project were somewhat negated by the fact that the job also required all applicants to have the correct immigration status.

A shift in the location of control is only one half of the attack on workers. The other half is the reduction of these workers either to actual or potential slave labour. The vocabulary of slavery is itself beginning to infiltrate immigration control discourse. The Trades Union Congress, in its pamphlet, *Overworked, underpaid and over here – Migrant workers in Britain*, refers to undocumented work in these terms: “Where this means that workers do not get paid for work already done, or cannot enforce rights

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6. See the June 2005 Home Office “Regulatory Impact Assessment” on the then Immigration, Asylum and Nationality Bill.

to, say, the minimum wage, it raises the question as to whether they are protected against slavery or forced labour” (TUC, 2003: 19).

In 2006, Anti-Slavery International produced a pamphlet by Klara Skrivankova – “Trafficking for forced labour UK country report”. The press release for this refers to the “many people trafficked into Britain and forced into slavery”. It is ironic that this pamphlet was produced a year before the celebration of the bicentenary of the supposed outlawing of the transatlantic slave trade.

On the other side of the political fence, David Davis, MP, a leading British Tory, has written of “the modern day slave trade”, where the *sans papiers* “are kept outside the confines of society and beyond the reach of the law”.<sup>7</sup> It was seen earlier that even the Prime Minister has at least acknowledged the existence of slavery through trafficking. Of course, for both Tory and Labour politicians, the answer to this servitude is not the abolition of immigration controls. Rather, it is a political answer that demands that the government “clamp down on illegal immigrants” – one which enslaves the slave even further through the process of deportation.

## 2. The welfare state and the migrants

### a. *The exclusion from welfare*

It is doubtful if the enslavement of the migrant could have been accomplished without first excluding those subject to immigration control from the provisions of the welfare state. Exclusion from welfare rights precedes exclusion from employment rights. The denial of welfare entitlement operates through a scissors effect (Cohen, 2001).

On the one hand, those subject to control will be denied entry if it is considered they will have recourse to “public funds”. Public funds are themselves defined in the immigration rules.<sup>8</sup> They encompass what may reasonably be described as the bedrock of the welfare state – a bedrock to be denied, by definition, to those denied entry to the state itself. An attempt to have recourse to such funds by those in the country without full immigration status may result in deportation. The list is very long.

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7. *The Mail On Sunday* 15 February 2005.

8. The Immigration Rules are being continually updated. They were last consolidated in 1994 as HC395, but have had numerous alterations since then.

For those not subject to immigration control it often provides the only route to physical survival – though even here harassment and humiliation at the point of application is a frequent experience. It comprises income support, income-based jobseeker's allowance, social fund payments, housing benefit, council tax benefit, state pension credit, child tax credit, working tax credit, child benefit, attendance allowance, carer's allowance, severe disablement allowance and disability allowance. It also includes accommodation as a homeless person, or allocation of any social housing. Funding issues appear in the immigration rules in other guises, for instance as regards students: school students need to show they are registered at "an independent fee paying school". All students have to show "they are able to meet the costs of their course".

The flip side of the "no recourse to public fund requirements" of the immigration rules is that an increasing number of state entitlements are themselves linked to immigration status. Those without full or appropriate status have no access to these entitlements. New Labour, in its 1999 Immigration and Asylum Act, listed a whole series of such benefits (building on the Tories' 1996 Asylum and Immigration Act). One of the more draconian provisions of the 1999 legislation was to remove local authority social service care in the community from those subject to immigration control. This was particularly draconian, as many of those who required such provision did so as a result of the destitution inflicted upon them by other parts of the same legislation.

The 1999 Act not only removed vast numbers from the welfare state – it also created a new poor law. Or, rather, it resurrected the old Victorian poor law – this time for the undeserving asylum seeker (and all asylum seekers were seen as undeserving). The Act followed on from the Labour government's first immigration White Paper, "Faster, Fairer, Firmer – A Modern Approach to Immigration and Asylum". This was premised on the equation of the refugee with the bogus. The preface by the Home Secretary sets the political tone in emphasising: "We rightly expect our immigration controls to deal quickly and firmly with those who have no right to enter or remain here (...) There is no doubt that large numbers of economic migrants are abusing the system by claiming asylum" (Home Office, 1998).

In line with the White Paper's political programme, the 1999 legislation established a refugee poor law for asylum seekers, the most prominent feature of which was its miserly and disciplinarian nature. It was to be administered not by any established welfare agency but by a new body

controlled by the Home Office itself – the National Asylum Support System (NASS).<sup>9</sup> It contained two main features: first, any support provided under it was 25% below income support level – which hitherto had been projected as the bare minimum for survival; second, any accommodation provided was to be involuntary and based on a forced dispersal system, whereby the asylum seeker could be moved to any part of the country without his or her consent. All this was justified on the grounds that such punitive measures were necessary to dissuade the “bogus”. What was left unacknowledged by all sides of the political debate – because immigration control was being defined as being an issue that affected only asylum seekers – was that non-asylum seekers seeking to remain here did not even have the so-called safety net of NASS. Common examples were workers who had lost their employment, students, or family members who had come for reunification. These really were and remain “the damned of the damned”.

*b. A history of exclusion*

Exclusion from welfare did not begin with the arrival of asylum seekers in the late 1980s. This, again, would be to accept the myth that immigration control can be reduced to control of refugees. Exclusion from state entitlements of those subject to controls has been a developing feature since the inception of controls themselves in 1905. In fact, there is a close nexus between constructs of welfare and of control. The two periods in which welfare flowered within the UK (post-1905 and post-1960) were also the two periods of expansion of controls. This is because welfare in the UK has never been humanitarian and universal, but has always been based on the narrowest nationalistic principles. The 1905 Act – ostensibly aimed at Jewish refugees – was, alongside its racist rhetoric, justified on the grounds of welfare. Major Evans-Gordon, MP, a fanatical supporter of restriction, claimed in parliament: “Not a day passes but English families are ruthlessly turned out to make way for foreign invaders (...) The rates are burdened with the education of thousands of children of foreign parents”.<sup>10</sup>

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9. NASS itself is in the process of being replaced as the government introduces its new National Asylum Model (NAM). However, the substantive issue of welfare remains the same.

10. *Hansard*, 29 January 1902.

The Aliens Act was enacted by the Tory Party. However, similar views were expressed elsewhere (Cohen, 2003: 79-106). Many trade unions supported controls and this support was contained in a resolution of the Trades Union Congress as early as 1892. Several of the early socialists adopted a narrow, nationalistic position in respect of immigration restrictions and the exclusion of the "alien" from welfare. A prominent member of the Independent Labour Party, Leonard Hall, wrote in its paper, *Labour Leader*, that "neither the principle of the brotherhood of man nor the principle of social equality implies that brother nations or brother men may crowd upon us in such numbers as to abuse our hospitality, overturn our institutions or violate our customs".<sup>11</sup>

In fact none of these sources provided the main organisational impetus for controls. This came from the now forgotten British Brothers League. The League was an anti-Semitic, proto-fascist, highly militant, one-issue campaigning party, whose base was in the East End of London. And the League continually emphasised issues of welfare (Cohen, 2006a: 27-29). In January 1902, the League organised an indoor rally of 4 000 people and this was preceded by several simultaneous demonstrations. The rally was controlled by 260 stewards (described as "big brawny stalwarts") and "some isolated foreigners were unceremoniously ejected". The event concluded by demanding immigration controls as a way of improving housing availability.<sup>12</sup>

The Aliens Act came into force in 1906 and was enforced by the Liberal government, which enacted what are viewed as the highly progressive Old Age Pensions Act of 1908, which introduced state-financed pensions, and the National Insurance Act of 1911, which provided both for unemployment benefit and for sickness, disablement and maternity benefit based on national insurance. However, this seemingly progressive legislation linked entitlements to residency and nationality status. For instance, the Old Age Pensions Act required twenty years' citizenship and twenty years' residency. Other pieces of inter-war welfare legislation contained analogous exclusions. The 1925 Widows', Orphans' and Old Age Contributory Pensions Act, providing a pension for the wife or child of an insured man, was initially intended to exclude all non-British citizens. This was withdrawn, but a residency qualification on the man was imposed instead (Cohen, 2003: 95). In 1925, it was also revealed that the London

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11. *Labour Leader*, 3 April 1904.

12. *Jewish Chronicle*, 17 January 1902; *East London Observer*, 18 January 1902.

County Council was excluding alien children from education scholarships and was intending to exclude all non-British citizens from municipal housing (Cohen, 2003: 97). In 1930, it was announced in parliament that non-nationals resident in the UK for less than six months were not to be submitted for any job by labour exchanges where British subjects were on the register.<sup>13</sup>

Likewise, the post-1945 agitation for controls (culminating with the 1962 Commonwealth Immigrants Act passed by a Tory government) coincided both with the construction of the welfare state and the coming to the UK of black Commonwealth citizens. The sources and the justifications for controls were very similar to those prior to 1905. Cyril Osborne, MP, a major agitator for controls, quoted with approval in parliament an editorial in the *Observer* claiming that British workers were concerned about “competing with immigrants for houses, hospital beds and social services”.<sup>14</sup> Important sections of the trade union movement supported restrictions (Cohen, 2006a: 77-82). And here again, this was linked to the demand that welfare be restricted based on immigration status. William Caron, President of the Amalgamated Engineering Union said, at its 1957 annual conference, that all the problems within the welfare state were due to: “the ever growing number of individuals who were not born in this country and who have in no way contributed towards the setting up of a fund into which they so willingly dip their fingers” (Rex, 1968: 80).

Moreover, as in the case of the Aliens Act, it is arguable that it was fascist activity that first prompted post-war control (Cohen, 2006a: 30-32). Certainly, this was the view of the fascist leader Oswald Mosley who, after the war, had reconstituted the pre-war British Union of Fascists as the Union Movement. Mosley described the 1962 Act as the “first success” for fascism in the UK. He was referring to agitation that had begun four years earlier with the so-called “Notting Hill riots”. In August 1958, in the Notting Hill area of London, fascists organised major attacks on black people while demanding mass deportations. Again, issues of welfare were prominent, with one fascist paper carrying the headline: “Blacks milk Assistance Board”.

Much post-war welfare legislation itself contained restrictions based on immigration or similar status. A 1957 tribunal decision on unemployment benefit under the 1946 National Insurance Act, held that such benefit

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13. Margaret Bondfield, MP, *Hansard*, 25 June 1930.

14. *Hansard*, 16 November 1961.

was not available to an Italian citizen who “had no right to be here and no right to be employed in the period in question” (Cohen, 2001: 183). By 1982, the *Guardian* was running articles headed, “Social security officers refusing benefits to blacks and Asians”.<sup>15</sup> Throughout the 1950s, the London borough of Lambeth did not enforce the overcrowding provisions of public health legislation, because otherwise, as its mayor said, “any coloured person evicted would have gained priority on the council list” (Cohen, 2001: 205). The British National Health Service has, from its inception in 1946, long prided itself on the fact that treatment is free at the point of need. However, the 1949 National Health Services Amendment Act allowed regulations to be made charging for hospital treatment those not ordinarily resident in the UK. These regulations were eventually enacted in 1982. However, even prior to 1982 exclusion was being practised. In 1976, Lord Avebury revealed in the House of Lords that 185 Asian women attending the Leicester General Hospital’s antenatal clinics had been asked to produce their passports and that one woman who refused to do so, having previously had a confinement at the hospital, was refused antenatal care.<sup>16</sup> And in 1981, the *Guardian* reported the denial of treatment to some black patients by St Stephen’s Hospital in London.<sup>17</sup>

### c. *Control through welfare*

Exclusion from the UK and exclusion from the welfare for those able (lawfully or otherwise) to enter the UK was only half the story. The other half was surveillance and control of those attempting to access welfare – the ultimate control being deportation. A 1979 *Guardian* article was headed “Ministry tells doctors to spy on migrants”. A young Turkish-Cypriot girl required emergency treatment at St Bartholomew’s Hospital in London. She had lived in the UK but overstayed her leave. A hospital clerk contacted the then Department of Health and Social Security (DHSS) about her status and the DHSS contacted the Home Office. Her surgeon complained to the British Medical Association and the *Guardian* reported him as saying: “This was a fundamental breach of medical ethics and could

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15. *The Guardian*, 13 August 1982.

16. *Hansard*, 6 April 1976.

17. *The Guardian*, 23 June 1981.

have led to the patient's arrest in his hospital had I not warned her not to attend".<sup>18</sup>

Surveillance and control intensified and became generalised throughout the 1990s – drawing in an increasing number of state agencies. In a press release of 13 October 1993, Michael Howard, then Home Secretary, announced the establishment of a "study of inter-agency co-operation on illegal immigration". This so-called "efficiency scrutiny" was designed to "examine the efficiency of existing arrangements for co-operation between the Home Office's Immigration and Nationality Division (now the Immigration and Nationality Directorate (IND)) and other key central and local government bodies". These bodies were to include "agencies of the Department of Social Security, the Employment Service, the Health Service and local government bodies". As a result of this scrutiny, local authorities and the IND became far more closely aligned. In October 1996, the IND issued its guidelines entitled: "Home Office Circular to Local Authorities in Great Britain. Exchange of Information with the Immigration and Nationality Directorate of the Home Office". The circular's stated purpose was "to invite local authorities to use facilities offered by the IND in identifying claimants who may be ineligible for a benefit or service by virtue of their immigration status; and to encourage local authorities to pass information to the IND about suspected immigration offenders". The circular had an annex "How to pass information to the IND about suspected immigration offenders encountered in the normal course of duties".

These administrative measures subsequently received statutory confirmation to the point where it now seems that the entire state machinery is engaged in the hounding of migrants. For instance, the 1999 Immigration and Asylum Act allowed for a two-way exchange of information between the Home Office on the one hand and, on the other hand, chiefs of police, the Director General of the National Criminal Intelligence Service, the Director General of the National Crime Squad, the Commissioners of Customs and Excise, anyone providing statutory support to asylum seekers under the 1999 Act and anyone else to be specified. Subsequent legislation consolidated this process. The 2002 Nationality, Immigration and Asylum Act imposes a duty on local authorities to furnish, at the request of the Home Office, information on any resident in their area suspected by the Home Secretary of unlawful presence in the UK. The 2002 Act

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18. *The Guardian*, 5 December 1979.

extends surveillance into the private sphere by obliging any “financial institution” to supply information to the Home Office where the latter suspects an offence under the so-called asylum support system.

This comprehensive system of surveillance is probably unique outside wartime. It is this surveillance, combined with the state’s exclusion of the unwanted by increasing immigration controls and exclusion from the welfare state of those without appropriate immigration status, that has created the context in which the migrant has been restructured as the slave.

### **3. How migrants slide into new slavery**

#### *a. Examples of modern slavery*

Of course, this modern slavery is not juridically the same as classical chattel slavery. The modern slave in the UK is not the lawful property of his/her master. Interestingly, Karl Marx – who frequently spoke in rhetorical terms of wage slavery under capitalism – did not always define slavery in terms of economic or property relations but as a “relation of domination”, with domination being direct under slavery and indirect under capitalism (Marx, 1975: 325-326). It is this relation of domination – domination by both state and by employer – which is the fate of our contemporary migrant.

In recent years, there have been several studies providing examples of forced labour and how it operates – both in the UK and elsewhere in the EU. One instance is “Forced Labour and Migration to the UK”, by Anderson and Rogaly, published in 2004 jointly by COMPAS and the Trades Union Congress. Another, also published in 2004 by the Trades Union Congress and written by Stepan Shakhno, is *Gone west – The harsh reality of Ukrainians at work in the UK*. Another has been referred to above – “Trafficking for forced labour UK country report” published by Anti-Slavery International in 2006 and written by Klara Skrivankova. In addition, much information about the plight of migrant domestic workers (MDWs) can be found on the website of the organisation “Kalayaan – Justice for Overseas Domestic Workers”. Collectively, all these reports show the numerous ways in which labour is produced by coercion and force. One way is the retention or withholding of identity documents – a method of preventing freedom of movement without the use of force. Another is debt bondage – whereby the worker has to pay so much to the master (for travel and accommodation, for example) that the debt

can never be repaid and therefore the work becomes endless. A third way is threatened or actual violence. The following case illustrates how various forms of coercion can coincide and so effectively prevent workers from leaving the employment. It is reproduced from "Forced Labour and Migration to the UK", which itself quotes from the *Independent* of 13 February 2004:

"In February 2004, Greek workers were brought to Cornwall to pick daffodils. Some of the flowers were picked for Winchester Growers, a major supplier of flowers to retailers including Sainsburys, Tesco, Marks and Spencer, Homebase and major garden centres. The daffodil pickers, however, claimed they had been subjected to 'slave labour conditions', labouring 10 hours a day in the rain and snow and being given cans of dog food to eat. They slept in tents and unheated sheds, which on inspection were described by the local authority head of planning and building control as 'totally unfit for human habitation'. They allege that they were physically beaten and threatened by armed thugs when they said they wanted to return to Greece: 'They called me in and said to me, 'Do you know what it means to be involved with the Mafia?' So I said no and they showed me guns and told me no one was leaving'. They finally obtained a telephone card and contacted their village in Greece. Friends from there in turn contacted the Greek Embassy who arranged to help them escape. The managing director of the agency that supplied the workers claimed that 'They simply couldn't do the work and they made up these stories as excuses so they could leave'."

What is clear is that real analogies do exist, either direct or indirect, between modern slavery in the UK and the chattel slavery that once existed, not just in its colonies, but in the UK itself. This can be seen from a reading of the main historical study of slavery in the UK as it existed at its peak in the 18th century (Shyllon, 1974). For instance, returning planters from the colonies brought back black slaves to be used as servants not just, as is normally assumed, because these were viewed as status symbols, but also because their labour was free. Granville Sharp, one of the great abolitionists, observed that the supporters of slavery in Britain emphasised the economic advantages of slavery in relation to black servants in that "no wages are paid, whereas free servants are not only clothed and boarded at the master's expense but receive wages as well" (Shyllon, 1974: 4). Slaves were sold within the UK with the prices fetched being relative to their labour power. One slave was offered for sale by public auction and advertised in the following manner: "A Negro boy, from Africa, supposed

to be ten or eleven years of age. He is remarkably stout, well proportioned and [...] fond of labour" (Shyllon, 1974: 6).

To prevent escape, slaves were made to wear collars and padlocks around their necks, the collars being engraved with the owner's name. One goldsmith advertised that he made "silver padlocks for blacks or dogs, collars, etc." (Shyllon, 1974: 9). Such collars are reminiscent of modern electronic tagging to which those subject to immigration are liable under Section 36 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004. Many slaves were also physically branded in order to help detection if they attempted to escape. One newspaper article advertised a reward for the recapture of a runaway slave who was "a Negro man, about 20 years old, called Dick, yellow complexion, wool hair, about five foot six inches high, having on his right breast the word 'Hare' burnt" (Shyllon, 1974: 8). It is no exaggeration to compare this branding to the planned introduction of ID cards, as legislated for in the 2006 Identity Cards Act. The UK has had a hidden history of identity cards. These were previously introduced in the 1919 Aliens Restriction (Amendment) Act, which at the time was denounced by one newspaper, the *Jewish Chronicle* of 30 May 1919, as constituting a "war on aliens" (Cohen, 2006b: 51). The modern slave may consider such vocabulary appropriate today. Finally, the modern slave, especially the undocumented, the *sans papiers*, the so-called "illegal", is in exactly the same position as that of the chattel slave in that neither have any rights. They are "unpersons". As one 18th century commentator, John Fielding,<sup>19</sup> said: "Justices have nothing to do with blacks, but when they offend against the law" (Shyllon, 1974: 10).

*b. The structuring of the slave economy and the slide into illegality*

Supporters of immigration controls have always been divided between the social racists and the economic racists. The social racists want neither the labour nor the presence of the migrant. Clear examples in the UK range from the British National Party to the United Kingdom Independence Party to the organisation Migration Watch. The economic racists desire the labour but want to control the presence. This split occurred within new Labour and was resolved in favour of the latter – as was inevitable given the need of the economy, that is of capital, for more labour. For the economic racist, immigration control is about exactly that – control not

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19. John Fielding was a leading magistrate and half brother to Henry Fielding, who wrote *Tom Jones*.

total exclusion. It is about defining and then separating out the wanted from the unwanted. The political split between social and economic racism can be vividly seen by contrasting the 1998 new Labour government White Paper with another, produced only four years later in 2002, by exactly the same government, "Secure Borders, Safe Haven – Integration with Diversity in Modern Britain". The former crucified the migrant as a villain by attacking those "facilitating economic migration by people who are not entitled to enter the UK" (Home Office, 1998). The latter metamorphosed the villain into a hero, the devil into a god, as "migration can bring considerable benefits to the UK" (Home Office, 2002). Of course, this metamorphosis was never a recipe for an open-door immigration policy. Instead, it was for a policy of selected entry, the selected chosen being perceived as being of economic value. It was a policy for the reduction of the migrant from a person to a commodity and then from a commodity into a virtual slave. This objectification is seen in the very similar titles of two further White Papers produced by new Labour on this issue. In fact, the plethora of White Papers produced by Labour on the issue of immigration control, alongside the number of immigration laws<sup>20</sup> enacted by Labour, shows how central the issue of immigration control is to the government and its perception of economic needs. One White Paper, produced in February 2005, was entitled "Controlling our borders: Making migration work for Britain (Five year strategy for asylum and immigration)" (Home Office, 2005). The other, produced in March 2006 was entitled *A Points-Based System: Making Migration Work For Britain* (Home Office, 2006b).

The proposed points-based system is, in effect, a rationalisation of the present situation and has been correctly described as a "re-badging exercise" (Ryan, 2005: 40). It is scheduled to be phased in by 2008. However, the points-based system clearly shows, through its tiered approach, with the highest tiers representing the highest privileges, how it is possible to assume or slide into a slave-like relationship – and how this will continue to be sanctioned by law. Tier 1 of "highly skilled" workers equates to the present Highly Skilled Migrant Programme (where there is already a points system). Tier 2 of "skilled" workers equates to the current work permit scheme. Tier 3 is to cover "low skilled" schemes – such as the

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20. Since Labour came to power in 1997, it has enacted the 1999 Immigration and Asylum Act, the 2002 Nationality, Immigration and Asylum Act, the 2004 Asylum and Immigration (Treatment of Claimants, etc.) Act and the 2006 Immigration, Asylum and Nationality Act.

present notorious Seasonal Agricultural Workers Scheme. Tiers 4 and 5 will consist of the current permit-free employments, and will be made up of students and people allowed to work for a brief period for non-economic motives. There is an unwritten, but crucial, Tier 6 and one that contextualises all others – this is the tier of the undocumented, of the *sans papiers*, of those without status, of those most vulnerable to a slave-like existence. The reason why this unwritten tier provides the context is because the working life of the migrant is so precarious that it is possible to simply slide down all the tiers and end up with that most deadly categorisation of them all – the “illegals”. Perhaps the best analogy is with football – with clubs dropping down divisions until they disappear out of the league altogether.

This proposed tiered system shows something else. It is not just the illegal who can be designated as slaves or slave-like. The new system, like the present scheme, is really representing degrees of security or insecurity in terms of immigration status and associated rights. It is creating a hierarchy of imported workers, each with a different status. In this sense they cannot all be viewed or analysed in the same way. Some are more privileged, elite, than others. However, in another sense they can all be viewed similarly. Even the most elite occupy their position on sufferance and are liable to lose or have restrictions put on their immigration status. For instance, those presently on the Highly Skilled Migrant Programme are excluded from public funds and even their chances of eventual settlement (which are greater than for other workers) do have restrictions. They are the equivalent of the “house slaves” of the American plantations.

In any event, under the present system, like any future system, it is easy to slide into illegality. There are two reasons for this. First legality, the status of being lawful, is itself not a constant. It is not a given. Instead, it is an artificial construct devised by politicians and manifested in legislation which constantly changes the definition of lawfulness. Second, even at any fixed point in time, the notion of legality is extremely fluid. So someone lawfully in the country for a defined period lapses into unlawfulness, assumes the status of the “overstayer”, on completion of that period. Likewise, someone entering the UK on condition of not having recourse to public funds may lose their status if they attempt such recourse. Again, entry given in one capacity may become unlawful if that capacity changes – so a married partner is liable to deportation if the marriage breaks down within two years of entry and a work permit holder becomes vulnerable if the work ceases. In all these instances yesterday’s lawful entrant can become today’s *sans papiers*.

An example of the slide into illegality can be seen from the Seasonal Agricultural Workers Scheme (SAWS), which allows for a maximum stay of six months. In 2003, 20 430 workers were admitted under the scheme, in 2004 the number increased to 25 000 but a quota of 16 250 was then imposed because of the increase in numbers of agricultural workers entering from the new EU accession states.<sup>21</sup> According to the government's own website, the scheme "is run on behalf of the Home Office by operators who recruit suitable people and place them on farms".<sup>22</sup> This direct handing over an area of immigration control to private firms ("operators") of the administration is unique and problematic. The operators have the power to decide who enters the scheme through the granting of a work card – which operates much like a work permit (and, as is the case for work permit holders, a visa then also needs to be obtained). Moreover, once the temporary worker enters the country then he or she is in the power of the operator, who can transfer him or her to any farm. The operators are supposed to check working and living conditions but this is by no means always the case, and often bad conditions accompany the slide into illegality. Here is a case study:

"Paul from Vinnytsya has been to the UK on SAWS several times, and says that the living conditions are very bad, even for people working legally through the scheme. As soon as his visa expired, he continued to do the same job, packing mushrooms and cabbages, but this time on half the salary he was on before. Every time the police came, he had to flee into the woods along with all the other undocumented workers" (Shakhno, 2004: 16).

The reduction from the documented to the undocumented can occur in other forms and in other, nominally unskilled, sectors: "A care worker was regularly made to stay late, and to stand in front of the supervisor while he wrapped up balls of paper and threw them at her. After eight months she had to take leave because she was physically sick with stress, yet, since she was a work permit holder with no recourse to public funds, she was not eligible for statutory sick pay. Her supervisor threatened that he was going to send her back 'home'. Eventually she left and is now working without a permit, in a different part of the country" (Anderson and Rogaly, 2004: 37).

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21. *Hansard*, 10 January 2006.

22. "Working in the UK" (information about the Seasonal Agricultural Workers Scheme for non-EU nationals ([www.workingintheuk.gov.uk/](http://www.workingintheuk.gov.uk/))).

c. *“Rightlessness” – the slave economy in practice*

The defining feature of the undocumented is rightlessness. In all other areas of the law it is the act that is illegal. In immigration law it is the person who, in Orwellian terms, has become an “unperson”. And like the medieval outlaw, the illegal is deprived of both rights and protection of the law. For instance, he or she is deprived of all key employment rights (Ryan, 2005: 87). Some examples are the right not to be discriminated against, the right to a written statement of employment terms, the right to enforce the contract of employment, the right to a pay statement, the right to working time protection, the right to complain against unfair dismissal, the right to the national minimum wage. And, paradoxically, given their slave-like existence, the undocumented are deprived of the right to work. And this is precisely how enslavement operates. Deprived of the right to work, the *sans papiers* are driven into those areas of the economy where the work is unregulated, exploited and re-structured as slavery.

However, the distinction between the documented and undocumented – even without the one having to slide into the other – is itself often quite tenuous. This is particularly the case as regards low skilled or unskilled workers, under both the present system and under the proposed points-based system – where, under both schemes, leave to remain is only temporary, for a short period and is non-renewable. Workers in this situation are deprived of fundamental rights. They are, for instance, deprived of the right to be joined by their family. Even more significant is a direct analogy, not only with the slave but perhaps, more pertinently, with the villein or serf of feudalism. Just as the serf was tied to the land and could not change master – so the short-term migrant has no right or no automatic right to change his or her master. In the light of new government proposals, this servitude will extend to migrant domestic workers, who will in future only be allowed a maximum stay of six months, with no right to switch employer. Skrivankova correctly argues: “The fewer options a worker has to change employer, the easier it is for an employer to put undue pressure on him as regards performance, conditions of work or terms of employment” (Skrivankova, 2006: 22).

An intensification of the slave-like position of the migrant is contained in the intensification of employer sanctions – taking immigration control enforcement further on to the shop floor. The criminalisation of employers for hiring undocumented labour, as contained in the 1996 Asylum and Immigration Act, has been greatly strengthened by two provisions in the 2006 Immigration, Asylum and Nationality Act. First, there will be

provision for on-the-spot civil penalties. Secondly, there will be an obligation on employers to check an employee's documents not just at the start, but throughout the whole term of employment – this in itself an acknowledgement that the documented can slide into the undocumented.

Employer sanctions will be further developed by proposals in the White Paper: "A Points-Based System: Making Migration Work For Britain". Once the new points-based system comes into force, employers will have to register before they are able to recruit overseas labour, and may jeopardise that registration if they are connected with employees who breach immigration law. Furthermore, employers (and educational establishments) will have to report their employees (and students) to the Home Office for absenteeism: "Sponsors will be required to inform us if a sponsored migrant fails to turn up for their first day of work, or does not enrol on their course. Similarly they will be expected to report any prolonged absence from work or discontinuation of studies, or if their contract is being terminated, the migrant is leaving their employment, or is changing educational institution. Sponsors will also need to notify us if their circumstances alter, for example if they are subject to a merger or takeover" (Home Office, 2006b).

In British immigration law, recent statutory measures have judicially sanctioned these slavery analogies even further. Under the 2006 Immigration Asylum and Nationality Act, those about to be deported and incarcerated in removal centres will now be allowed to work. But this work will not attract the rewards of a free labourer, but rather those of a prisoner. The Act specifically provides that the law relating to the national minimum wage shall not apply.

Section 10 of the 2004 Asylum and Immigration (Treatment of Claimants, etc.) Act represents an even more vivid example of the statutory confirmation of a slave-like existence. This makes provision of housing and other poor-law support for certain refugees conditional on their undertaking "community activities". These are refugees whose claim has been rejected by the Home Office but are unable to return home because of circumstances beyond their control – because they are stateless or ill or (paradoxically, in the case of a rejected asylum application) the country of return is too dangerous. Section 10 transforms asylum seekers into slaves. It makes their labour compulsory, as refusal to participate will result in deprivation of housing and other support. When the Act was being debated in its committee stage in the House of Lords,<sup>23</sup> Lord Rooker encouraged

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23. *Hansard*, 15 June 2004.

voluntary sector groups to get involved in tendering for this slave labour. He also suggested that this compulsory refugee labour could be used for the maintenance of the refugee's own accommodation – which is a way local authorities and private companies can get otherwise run-down, unlettable properties renovated for free. There has been successful resistance to the implementation of Section 10. In Liverpool, the YMCA tendered for the scheme. But after the undocumented and their supporters expressed their outrage, the tender was withdrawn.

#### **4. What is to be done? Some final observations**

##### *a. Questioning controls through their negative outcomes*

Wherever there is a choice to be made between attacking modern slavery or upholding its cause – immigration controls – governments will always opt for the latter. This is in spite of legislation which, on the surface outlaws slavery, but which in practice controls the slave by co-opting the master in enforcing immigration control. An example of this co-option has already been seen in respect to employer sanctions. But it goes much further. Under the law regulating gangmasters – the Gangmasters Licensing Act – introduced in 2004 after the drowning of Chinese cockle-pickers, gangmasters will only preserve their registration if they show they are policing and refusing to employ undocumented workers. The “Explanatory Memorandum to the Gangmasters (Licensing Authority) Regulations 2005” states: “The issue of a licence will be dependent on a gangmaster demonstrating that his business is complying with general employment law (including immigration and taxation legislation)”. And any undocumented worker found working for a gangmaster will not be offered the protection of lawful residency, but will be liable to deportation.

An acknowledgement of modern slavery is found within Section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004. This criminalises trafficking for all forms of labour exploitation. Exploitation is defined in part as contravention of “Article 4 of the Human Rights Convention (slavery and forced labour)”. Sections 57-60 of the 2003 Sexual Offences Act (extending Section 145 of the 2002 Nationality, Immigration and Asylum Act) contains specific provisions outlawing trafficking for sexual exploitation and sex slavery. In practice this legislation offers no protection to the modern slave in that it offers no protection from deportation. As a consequence, these legislative provisions are in effect not so much about minimising exploitation as maximising immigration controls

– and it is the vulnerability of the undocumented caused by controls that creates or reinforces the original relationship of slavery. Traffickers are just parasites on an already existing system – immigration control – and the only solution, or the start of the solution for those trafficked, is the abolition of the system itself. Trafficking should be viewed as an issue of employment rights, not of immigration control enforcement.

Human trafficking is undoubtedly exploitative. However, the problematic nature of its relationship to immigration control is shown by the Council of Europe's Convention on Action against Trafficking in Human Beings. Although this is a measure primarily against sex trafficking, its scope is far wider. Article 4 refers to "at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs". Removal and sale of body organs – alongside medical testing for drug companies – are themselves indicative of the desperation to which many of those subject to controls are driven and reveals an exploitation even more extreme than that which existed under classical chattel slavery. The convention has been open for signature since May 2005. It was only in January 2007, at the commemoration of the anniversary of the Abolition of the Slave Trade Act, that the Prime Minister announced that the UK would sign. Though this announcement has generally been viewed as progressive, yet the convention is itself problematic and is ultimately not about protection but about enforcement of immigration control. In particular, the person trafficked is not guaranteed any immunity from deportation. Under Article 13, just a thirty-day "respite" period is allowed. Under Article 14, permanent stay is discretionary<sup>24</sup> and may be given to those trafficked "where the competent authority considers that their stay is necessary for the purpose of their co-operation with the competent authorities in investigation or criminal proceedings". The potential physical danger at the hands of traffickers or their accomplices of such co-operation is obvious. In practice it will be, for example, sex workers who are deported and not necessarily their procurers or traffickers. Historically, this deportation of migrant sex workers has been the case ever since the 1905 Aliens Act. For instance, the Jewish Chronicle of 30 April 1909 reported a meeting in Cardiff organised against women sex workers where it was stated that: "Owing to the leniency of the Cardiff stipendiary magistrate a few years ago, two Jewesses out of thirty

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24. Permanent stay may also be given as a discretionary measure where it is "necessary" due to the "personal situation".

seven who had been before him were allowed to remain in Cardiff, the other thirty five having been deported”.

For many people, the problems of exit from their countries of origin and, in particular, entry into the UK, mean a reliance on traffickers. This has led some political activists against immigration controls to make a distinction between “trafficking” (which is based on violence or deception) and “smuggling” (which is based on consent), and to be critical that laws about the former will include the latter. They support a third alternative to either trafficking or smuggling for profit – namely “rescuing” (No One Is Illegal, 2005). Some feminists working with sex workers have argued similarly (Doezema, 2002).<sup>25</sup> Of course, even if immigration controls were to be abolished, then trafficking in some form may continue – as sex trafficking existed in the form of the appropriately termed “white slavery” prior to the introduction of controls (Bristow, 1982) – and some measure of protection would be required against traffickers. However, it is relevant to note that in the UK context, there was no legislation against trafficking prior to immigration controls being established in 1905. Trafficking laws were first enacted in 1912 in the Criminal Law Amendment Act. These laws seem to have been as much about immigration controls against women as protection of women against traffickers. Indeed, the great feminist, Sylvia Pankhurst, in her newspaper *Women’s Dreadnought* of 19 December 1914, wrote an article critical of the 1912 legislation and the article was entitled “Protecting Women?”

What the laws about trafficking and related legislation show is that everything about immigration controls contradicts all notions of equality and diversity. There cannot be equal opportunity immigration controls and there can never be “fair” controls. This is because controls can never be fair to those subject to them. And it is the examination of the well-being and welfare of those subject to controls which is the purpose of this article – not the development of the European economy, which is manifestly antagonistic to this welfare as long as it is based on the enforcement of immigration controls.

Of course, it is possible to construct a whole series of reforms in which it is possible to provide further rights to those whose labour is required – and who are consequently allowed to cross borders in order to sell this labour. Likewise, it is possible to develop various forms of “amnesties”

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25. Doezema points out that other feminists regard the notion of “consent” as meaningless in regard to sex trafficking.

extending the rights of residence to a greater number of those presently defined as illegal. Indeed, most of the non-government literature quoted in this article concludes with many such proposals.

However, the reality is – as shown by UK immigration controls – that liberalisation for one sector leads to the strengthening of controls over all other sectors. It is no coincidence that various UK politicians floated the idea of a limited amnesty – just after they passed the draconian 2006 Immigration, Asylum and Nationality Act. And, of course, the very idea of an amnesty poses the question of “an amnesty for whom?” And those left outside the amnesty will be left even more vulnerable, even more precarious than ever.

### *b. Idealism?*

At the moment, the demand for the abolition of controls comes mainly from relatively small political groupings – such as the No One Is Illegal network, which is developing through Europe and North America. However, it would be misconceived to criticise such a demand as idealistic. In fact, it is possible to argue that what is idealistic is the notion that controls could ever be metamorphosed into their opposite, and become equitable or just. Some reasons for this have been given above. But there is another historic and fundamental reason. Immigration controls in the UK are the product, the success, of proto-fascist and actual fascist movements. In this sense they are unique. Being unique, they pose acutely the question of whether they are capable of reform, whilst still retaining controls in principle – because it is such controls in principle that are the fascist success. The argument being put in this essay is that, quite apart from anything else, it is these origins which make it impossible to stand controls on their head and turn them into their opposite – fair, reasonable or non-racist.

It will require a major political movement to abolish immigration controls. History and experience has shown that the grass roots of this movement will not be the legislators – though the legislators, or some of them, may well be important allies. It will be the *sans papiers* fighting back – as they are now fighting back against deportations and detentions throughout all countries of the EU. Without this movement of the *sans papiers*, then the reality of immigration control would have remained a secret, hidden from public view. And it is through support for the *sans papiers* that the public may be drawn into a wider consensus of opposition to controls. This has been the experience in the UK, where nearly three decades of campaigning against deportations has drawn increasingly wider layers of people

– trade unionists, educationalists, welfare workers being just some examples – into a position critical of at least aspects of controls (Cohen, 2003: 213-225). Sometimes this has been linked to enlightened self-interest – such as in the case of those trade unionists who appreciate that a workforce split between the “illegal” and the “legal”, between slaves and non-slaves, is generally a weakened workforce. Sometimes the consensus has been more one of principle. In the UK it has always been the resistance of the undocumented that has at least placed some restraint on controls – not least by preventing deportations. Such restraint is maybe all that can be done whilst controls persist. But it is crucially important. In the UK, the group No One Is Illegal, with trade union support, has produced a pamphlet, “Workers’ Control Not Immigration Controls”. This includes a series of suggestions designed to challenge immigration controls in practice, to make them or parts of them inoperative. In particular, it looks at the predicament of trade unionists in the welfare sector whose job it now is to examine the immigration status of claimants and to refuse those with the inappropriate status. It examines how a trade union refusal to comply with such a requirement would break the link between immigration status and welfare entitlement and it provides examples of where this has happened.

Finally, one of the difficulties with discussing this whole subject is that a century of controls has so legitimised them that the absence of controls appears to be beyond the popular imagination. Again, this does not mean that the absence of control and a world of free movement would be a panacea for all worker exploitation. Given global inequalities of wealth, trafficking, sex or otherwise, would still continue. Under a world order of freedom of movement, international conventions and national legislation will be required to ensure equality between migrant and indigenous labour – until that whole distinction is itself broken down and disappears into a truly socialised global economy. Nonetheless, the abolition of immigration controls would represent a huge step in that direction and in the abolition of modern slavery.

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## II. What security for migrants and their children? Thoughts inspired by the Catalan example

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### Introduction

“Security”, in relation to migrants and their children, can be approached from at least two very different angles. Is it a question of providing them with security against all the vicissitudes of life (illness, accident, old age, unemployment), as social policy experts understand it, or rather of examining the problems which they may pose to the security of people and property, as experts in security policy would suggest? The difference between these points of view is a reflection of administrative as well as academic divergences. On the one hand, there are the many more or less interconnected, and more or less interdependent, social bureaucracies with their specialists and researchers, and on the other hand, there is the world of security with police officers and police specialists, judges, prison establishments and their analysts. While these two worlds remain self-contained most of the time, there are signs that, since the early 1980s, the second type of interpretation is gaining ground. Against a background of enduring unemployment and/or increasing precariousness, the “crisis of integration models”, whether they be French, English or Dutch, is an argument used by political and media leaders of every persuasion to tighten controls on migrants and their children. So “urban violence”, “community withdrawal”, “delinquency” or the “Islamisation of society” are more often associated with these social groups than their social security contributions or the part they play in funding pensions in our ageing states.

Yet social policies and security policies are far more closely linked than might be suggested by a separate study of them, in the sense that they play a direct part in the organisation of relations between social groups within a state and with the state. For, while these policies are not the only factors in constructing the social order by which our societies are governed, they nonetheless constitute important foundations of that order, since they contribute to defining the place of each individual as well as the perceptions attaching to it.

This paper will therefore seek to explore some of the relations between existential security and public security, on the basis of a survey of the situation in Catalonia, carried out in May 2006, in the course of which we met people in charge of housing and health policies, but also education and public security policies, at either independent or local institutions.<sup>1</sup>

## 1. Migrants in Catalonia

### a. *Some general data*

Catalonia is an autonomous Spanish community with an area of 32 000 sq. km. It comprises four provinces (Barcelona, Tarragona, Girona and Lerida) with a total of nearly 7 million inhabitants, 60% of whom live in the Barcelona urban area, and 1.5 million of them within the city limits. Even before its new statute was adopted, the community enjoyed a large measure of administrative and political autonomy, having its own government, parliament and institutions. Education, health, public order, etc. thus come mainly within the jurisdiction of the Generalitat, which employs some 140 000 civil servants.

Between 1950 and 1970, Catalonia underwent substantial waves of migration, mainly from Andalusia, Murcia and Extremadura. However, since the early years of the 21st century, the region has seen immigration return strongly, this time mainly from Latin America. The foreign population of Barcelona has increased ninefold between 1996 and 2006, from nearly 30 000 to over 260 000 people. It now represents 15.9% of the population, as compared with 1.9% 10 years earlier.<sup>2</sup> Of these migrants, 49.2% come from Latin America (41.7% from South America and 7.5% from Central America), 17.1% from the European Union, 12.1% from central Asia, 6.9% from North Africa and 6.7% from central and eastern Europe.

But behind these overall figures there lie very different realities as regards the nature of these migratory movements. For example, the Asiatic communities (Pakistan, China, India and Bangladesh, in order of size) comprise mainly male immigrants as compared with the Latin American

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1. Our sincere thanks go to the people we spoke to in the Generalitat and Barcelona municipal offices who gave us their time and shared information with us. The ideas expressed here are those of the author only.

2. See [www.bcn.es/estadistica/castella/dades/inf/pobest/pobest06/part1/index.htm](http://www.bcn.es/estadistica/castella/dades/inf/pobest/pobest06/part1/index.htm)

communities (60.3% of women in the case of the Dominican community). The level of education is also very variable: while primary education predominates in the Asiatic and African communities, migrants from Latin America or the Middle East seem to have far higher qualifications. These structural differences indicate different social levels between migratory groups and affect the opportunities open to each community or the difficulties which they may face.<sup>3</sup>

Migrants congregate in the historical centres of Catalonia's principal cities (Barcelona, Girona, etc.) or in working-class districts on the periphery. In Barcelona, they are concentrated in certain districts such as Ciutat Vella, where they represent over 25% of the population. This degree of concentration is largely explained by the way in which the free market operates. Migrants find it rather difficult to obtain housing, since the housing policies pursued by the state or the autonomous government<sup>4</sup> are ineffective. The structure of the housing market in Spain, which is characterised by a predominance of owner-occupiers, is actually quite different from what we observe in other countries. According to the 2001 census, 89% of households owned their homes (80% in Catalonia), as contrasted with 55% in France. Thus, rented housing is rare and expensive. Moreover, it attracts far more foreigners than nationals – 58% of them rent as compared with 9% of nationals (63% and 13% in Catalonia).

The predominance of short-term contracts among migrants,<sup>5</sup> together with the administrative situation in which some of them find themselves,

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3. This is not sufficient, however. Migratory processes can only be analysed by taking simultaneously into account the original characteristics of migrants and their societies and the ultimate variables of these same migrants, as well as those of the host societies (Sayad, 1999).
  4. The preliminary draft bill on the right to housing in Catalonia points out "the failure of the housing policies traditionally pursued both in Spain and in Catalonia, which have proved clearly inadequate and overtaken by events since the second half of the 1990s". This bill accordingly aims to create a specific stock of housing accessible to people in need of accommodation and to improve the standard of private sector housing. It envisages achieving a threshold of 15% social housing by 2025. To meet this target, the bill envisages direct construction, as a joint venture (with municipal authorities or specialised organisations), and even requisition of vacant housing. Departament de Medi Ambient i Habitatge, "Avantprojecte de Llei de Dret a l'Habitatge a Catalunya", November 2005, typescript, p. 8 ff.
  5. Of all European countries, Spain has the most fixed-term contracts: 31.9% in 2005 as compared with 12.4% in France and 13.8% in the 24 EU countries (source: Eurostat). The contracts principally concern women, migrants and young people.

usually denies them access to rented accommodation or to bank loans with which to purchase a home. So much so that, as some of the people we spoke to told us, there is a trend in the big cities for “brokers” to flourish, these being a kind of finance company which looks less closely at the loan guarantees required, but of course charges higher rates of interest in return. Thus, the aggregate income of an enlarged family – whether declared or not – is often accepted and enables certain migrants to become the owners of their homes, particularly where older properties are concerned. These buying strategies may be seen as a way of getting round the weakness of the private sector rented housing market, and also the social housing market.

The data on migrants are drawn from the municipal registers (*padron*). *Empadronamiento* (registration) is an administrative procedure which enables foreigners, whatever their administrative situation or their age, to enjoy elementary social rights – health and education. Such registration is obligatory throughout the Spanish state. Over and above the rights that it confers, the procedure also constitutes official proof of residence in the country, which is useful in the context of regularisation procedures (currently three years). The majority of foreigners therefore go through it. However, municipalities seem to encourage it to varying degrees. Whereas in Barcelona every foreign newcomer is notified of his rights, some municipalities in Andalusia do everything they can to restrict them. As one of the people we spoke to informed us, the mayor of one such municipality said of the seasonal workers in the orchards: “After six o’clock in the evening, Moroccans aren’t wanted”.

#### *b. The situation of migrants*

The majority of migrants from southern countries work in agriculture, construction or personal services, and many of them work in the underground economy. A study of Moroccans and migrants from central Africa and the Philippines shows that 80% of the persons questioned did not declare their first job and remained in the underground economy for three or four years (Sole, 1995: 28). Other studies on African farm workers in Catalonia (Jabardo, 1995), Andalusia (Roquero, 1996), on Africans and Latin Americans in Barcelona (Valls et al., 1995), and on other migrants from southern countries (Ramirez Goicoechea, 1996) arrive at the same conclusions. These migrants, whether temporarily in an illegal situation or having lapsed into one, work in the most physically arduous and worst paid jobs, with a high turnover. Although migrants’ incomes vary depending on sector and region, they remain well below those of nationals for

the same work. In Catalonia, their incomes were 21% lower in agriculture, 18% in construction, 40% in industry and 50% in personal services (Generalitat de Catalunya, 1995: 63).

It is probably here that one of the keys to the question lies. Despite determined talk of deportation, stepping up surveillance at Mediterranean frontiers and combating the trafficking “mafia”, Spanish firms remain very keen to hire cheap labour made docile by its situation of administrative and economic vulnerability (Calavita, 2003).

Indeed, it was an awareness of this state of affairs that prompted the present Spanish Government to regularise massive numbers of clandestine immigrants in 2005, precisely on the basis of the supply of employment contracts. It was the employers who asked for this, in exchange for turning a blind eye to past practices and threats of tighter controls. Although this operation did much to tidy up the situation, it seems that the sectors in which illegal employment is an established practice (agriculture and construction) resisted in large measure. Thus, while nearly 570 000 persons were regularised, the INE (National Statistical Institute) reported 1 522 800 registered foreigners (*empadronados*) in illegal situations, to which must be added 10% of unregistered foreigners, according to Rodrigo Gavilán, spokesman for the CEP police union. This means that two-thirds of migrants in irregular situations, living and working in Spain, have remained outside the process (Vigorena Valladares, 2005).

The physical presence of these migrants in the principal towns and cities of Spain has led the (local and autonomous) authorities to take measures to cater for them. As one of the people we met said:

“The reality is that there are thousands of people arriving, legally or otherwise, and where their social rights or their health needs are concerned we cannot look elsewhere [...]” (conversation with the Director of the Technical Immigration Service, Barcelona town hall, March 2006).

But this taking of responsibility makes sense in a rather special context, because the Catalan authorities do not have legal powers to control migratory movements. The enforcement of the *Ley de extranjería* is a matter for the central authorities, as regards both frontier controls and the situation of foreigners present in the country. So naturalisations, regularisations and deportations come under the jurisdiction of the Spanish state, whereas the day-to-day management of migrants, legal or otherwise,

is in the hands of the local and autonomous authorities. As one police officer told us:

“We are faced with a real paradox: the migrants who manage to jump the barrier [in Ceuta or Melilla] rush straight off to the police station to submit their applications [...] And because they cannot then be deported and cannot stay over there, the government organises flights to distribute them round the country – one plane goes to Barcelona, another to Andalusia, and so on” (conversation with officer Mossos d’Esquadra, Chief of Ciutat Vella police station, Barcelona, March 2006).

The principal Catalan authorities have consequently adopted action plans designed to take account of the migratory factor in social policies and ensure that migrants are actually able to exercise their social rights.

The Generalitat’s “Citizenship and immigration plan 2005-2008” accordingly makes a series of recommendations, proposing transverse values which must be upheld throughout the autonomous authority’s departments, such as health, education, police, etc. (Generalitat de Catalunya, 2005). The goals set out in this outline plan are then implemented in each of the Generalitat’s departments and specific funding is allocated to them. They also function at local level, for example in Barcelona, which adopted a municipal immigration plan in 2003 (Ajuntament de Barcelona, 2003). Among the principal measures is a *plan d’acogida* (reception plan) which aims to serve as a stepping stone for recent arrivals. NGOs, followed by the social services, provide information and guidance for migrants to enable them to access basic resources: *empadronamiento*, legal assistance (in particular with regularisation), language learning, the health system and the emergency social services.

The survey brought to light a wealth of integration and assistance initiatives for migrants. Apart from the *plan d’acogida*, a city like Barcelona has set up an advisory council of migrants’ associations; the autonomous government’s education services have developed fast-track language learning methods; most of the social services call on interpreters or intercultural mediators; and even the autonomous police have devised specific training modules on cultural diversity. All in all, it is a considerable effort on the part of motivated, enthusiastic people, some of whom are themselves the products of migrant communities.

## 2. (In)discipline and competition

### a. A security counterweight

At the same time, on 15 January 2006, a *civic ordinance* came into force in Barcelona with the aim of “preventing any conduct likely to disturb the life of the community and curbing any antisocial behaviour which may occur in public”.<sup>6</sup> It covers all public places (streets, squares, parks, beaches, etc.) in the city, as well as public transport, administrative buildings and firms performing a public service function. Without prejudice to any criminal prosecution, which certain acts may bring, it provides for a series of behaviours to be treated as punishable offences. For example, there are penalties for: graffiti and paint spraying; gambling (*trileros*); begging with children or with disabled people; “aggressive” begging; washing windscreens at traffic lights; street vending; street prostitution; using public benches to sleep on; “physiological needs” (urinating, spitting or defecating in the street); consuming alcohol if it disturbs the peace or involves glass or aluminium containers; and “acrobatic games” involving roller skates, skateboards or cycles. Fines range from 30 to 3 000 euros, depending on the seriousness of the offence, most falling into the 750 to 1 500 euro bracket. The ordinance also calls for the justice system to take this type of behaviour more fully into account. While it is not solely aimed at migrants, this administrative measure is of direct relevance to them, especially those whose situation is not regular; their status makes it impossible for them to enter the legal labour market and often condemns them to “survival strategies” explicitly covered by the ordinance.

The city’s socialist mayor, Joan Clos, justified it by explaining that “we have to deal with the new problems arising in public places” (*El País*, 24-25 December 2005), following a virulent campaign on this issue by the municipal opposition *Convergència i Unió* (CIU) and the People’s Party (PP), who accused him of “permissiveness and lack of determination” in the face of “unsocial” behaviour. This campaign received full press coverage. In the end, the measure was passed without difficulty; the Socialist Party of Catalonia (PSC), *Esquerra Republicana* (ERC) and CIU voted in favour, the PP abstained (finding it insufficient). Only *Iniciativa per Catalunya* (ICV-EUiA), despite being in power (with the PSC and ERC),

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6. “Ordenanza de medidas para fomentar y garantizar la convivencia ciudadana en el espacio público de Barcelona”, January 2006, page 5. For a critical view, see Silveira (2006).

voted against. While the exact reasons for its adoption still require clarification at local level, it fits into a widespread trend, which transcends left/right divisions and aims to regulate conflicts over the use of public space by coercive methods. The policy of “zero tolerance” pursued by the Mayor of New York, Rudolph Giuliani, and his police chief, William Bratton, is the most famous of these initiatives, but the steps taken by the British Government to combat antisocial behaviour (in particular the notorious “control orders”) or those chosen by France to curb unlawful conduct on the part of working-class youths point in the same direction (Bonelli, 2005).

In order to understand this apparent paradox, one has to come back to what is called the integration of migrants, but should more properly be referred to as the discipline exerted over them. The fact is that, aside from the question of controlling migration, it is increasingly by the yardstick of the disorder they may cause that their presence in a country tends to be measured.

#### *b. Migrants and disorder*

For example, Angel Acebes, former Interior Minister in the People’s Party government, recently ascribed the rise in burglary, violent theft, abduction and murder to the “criminal gangs who take advantage of frontiers like sieves to get into Spain” (*El Pais*, 25 May 2006). Similarly, Nicolas Sarkozy, then French Minister of the Interior, speaking of the riots in October/November 2005, said:

“French people know that the violence that broke out in the suburban estates last autumn is not unrelated to the disconcerting failure of immigration and integration policy, reflected in the fact that children born in France feel less French than did their grandparents, who were actually foreigners. We have to look this painful reality in the face and draw all the proper conclusions: our system of integration is no longer working!” (National Assembly, official record, 2nd sitting, Tuesday 2 May 2006).

Others, like the Employment Minister, Gérard Larcher, or the Permanent Secretary of the Académie Française, Hélène Carrière d’Encausse, blame polygamy for causing disorder, while Spanish sociologists like Amando de Miguel say that “Ibero-American migrants integrate very well, Africans and Muslims very badly”, unhesitatingly seeing a causal link between the

rise of immigration and the increase in domestic violence.<sup>7</sup> All of them have thereby underlined the unbridgeable cultural difference of migrants and their supposed inability to integrate, unlike earlier waves of immigrants, who were assumed to be more in tune with national traditions and culture. Apart from the fact that these views rely on a veritable – and often tragic – historical amnesia, where these earlier migratory movements are concerned,<sup>8</sup> they offer a new culturalist reading of relations between social groups, which makes it impossible to understand the changes that have affected the working class over the last thirty years. This substantialist view of migration, which arbitrarily isolates a community (usually comprising the most recent and most impoverished migrants), together with a single defining criterion (national origin) to the exclusion of any others (sex, occupational group, geographical place of residence, etc.), in fact affords only a very partial picture of the complexity of social integration (Noiriel, 2001: 331 ff.). What can terms such as “second-generation immigrant”, or even “third-generation immigrant”, mean when they relate only to certain groups such as North Africans or Africans, and not to Latin Americans or to eastern European or Asian migrants? The migration issue is never a question of individuals (the migrant considered as and for himself or herself), but a social process affecting the whole of society through a redefinition of relations between social groups. It may well be useful to remind ourselves that in France, car manufacturers like Peugeot, Renault and Citroën were among the first to set up Muslim places of worship in their factories, and to respect prayer times and nutritional interdicts. The point in these production units employing a high proportion of foreign labour, was not so much to respect cultural diversity, as to divide communities in order to break the working-class unity which political and trade union militants were trying to build. It mattered little that these immigrant workers were crammed together in furnished rooms, hostels or shantytowns, and never moved out of their communities. Curiously, it was not until the mechanical link between immigration and work came to be broken that integration started to be talked about and increasingly regarded as a moral imperative for migrants.

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7. See his address to the conference on “Inmigración y sociedad. Un compromiso social desde el poder legislativo”, Corts Valencianes, Valencia, 7 June 2006.

8. In France, Gérard Noiriel records the “manhunts” organised against migrants of Belgian, Polish or Italian origin, which marked the late 19th century and the first half of the 20th century. For example, in August 1893 at Aigues-Mortes, the local population attacked Italians working in the saltworks, killing 50 and wounding 150, despite the intervention of the police (Noiriel, 1988: 257 ff.).

The consequences of the economic crisis that began in the second half of the 1970s, and the changes brought by the transition to a “post-Fordist production model”, are transforming the living conditions of the working classes as a whole. Companies that are heavily reliant on labour are relocating to the countries of the south, or pursuing automation and computerisation, thus generating mass unemployment, which goes hand in hand with widespread recourse to employment agencies and temporary contracts. These two factors have made increasingly precarious the living conditions of the working class, which the coming of the salaried society (based on economic growth and a strong welfare state) had helped to reduce (Castel, 1999). And within that working class, migrants and especially their children have been particularly hard hit. Occupying the lowest rungs of the social ladder, they are the people most likely to be either unemployed or condemned to constantly switching between jobs of the most precarious and temporary kind.

The extent to which this category has been destabilised, at the same time generating unrest, altering general perceptions of it and exacerbating competition within it, is probably not sufficiently realised.

The urban unrest for which certain sections of working-class youth (whether or not of immigrant origin) are responsible thus appears as a direct consequence of the types of existential insecurity affecting them. The factory floor, by integrating in large measure the standards and values of these young people while setting a clear dividing line between the acceptable and the unacceptable, long operated as a veritable institution of normalisation, all the more so as it offered opportunities to plan for the future. Indeed, the predictability afforded by worker status was an important component of the disciplinary control in which the factory played its part. Founding a family, making plans for purchases, holidays, housing, all that was part and parcel of Fordist status and helped to shorten the periods of social uncertainty which fostered disorder and petty crime. One of the paradoxical effects of the wage destabilisation brought about by new patterns of labour management is that it reintroduced, automatically and no doubt inevitably, the types of indiscipline that marked the beginnings of the industrial revolution. Uncertainty about the future locks people into the present and into a preoccupation with day-to-day survival, which leads them to grab any opportunity that comes along, legal or otherwise. As Pierre Bourdieu showed in the case of the Algerian subproletariat, “because they are unable to provide the minimum of security and assurance about the present and the immediate future, which steady employment and a regular salary bring, unemployment, intermittent employment

and work by way of mere occupation are impediments to any effort at rationalisation of economic conduct by reference to a future purpose and confine existence to fear of the morrow, that is to say fascination with the immediate present” (Bourdieu, 2002: 205).

This is all the more true as, in parallel with these transformations in the world of work and its capacity to offer a setting for young people, all those worlds that were closely linked to it have also declined – in particular, political parties and trade unions, which were not content, as is sometimes said, to “channel and control rebellion” but organised, as it were, the ongoing development of life as a whole (in particular by organising sporting, cultural and social activities), thus helping to give a meaning to rebellion but also to the whole of existence (Bourdieu, 1993: 225).

Urban unrest, petty crime and everyday “fiddles” are all the more frowned upon, as in the working-class districts they reflect the fading dominance of the “settled population” – doubly affected by their greater social vulnerability and by ageing – over the “marginals”. The conflicts inherent in this relationship of dominance, as Norbert Elias and John L. Scotson remind us, “usually remain discreet when the power differentials are very large; but they can erupt in the form of ongoing conflicts (which happens when the balance of power changes in favour of the intruders)” (Elias and Scotson, 1997: 47). The former are often found among nationals, or migrants who have been present for a long time; the latter often come from more recent waves of migration.<sup>9</sup> The behaviour of youngsters “with no future” contrasts starkly with the normative systems of workers in precarious employment. This is true, in particular, of their occupation of space. Just as the question of entrance halls in apartment blocks has become a central issue in France, that of public squares and streets in Catalonia constantly crops up in conversation. As one police officer told us:

“For example, there are lots of problems now [...] with parties attended by South Americans, Ecuadorians and so on [...] We have lots of problems, lots. Plenty [...] Because their culture is to be on the

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9. However, we need to be very cautious in this matter and avoid interpretations of an “ethnic” or “culturalist” kind. Despite the many speeches along these lines (by politicians, journalists and academics), a study of the characteristics of the French rioters in October/November 2005 shows that the only thing they had in common was social position: they were ordinary young people from working-class homes, sometimes attending school or employed in unskilled jobs (casual employment, salespeople, kitchen hands) (Lagrange and Oberti, 2006).

street all the time. So what we have to try to do is find a compromise between the individual who doesn't want them to be on the street and these people who have every right to be on the street, but who can't drink, can't make music [...] Which means that you go along and you say: 'When I come back tomorrow, if you are playing music I shall make a report, if you are drinking in the street I shall make a report; this hairdressing parlour you've got here,<sup>10</sup> you haven't got a permit for; if you work, if you do, you have no contract of employment [...]', which means that one way or another they are made to leave. That's what the residents ask you to do, they want solutions" (conversation with officer Mossos d'Esquadra, chief of Ciutat Vella police station, Barcelona, March 2006).

These conflicts are becoming even more acute in a context of radicalisation of competition for access to scarce resources: unskilled work, housing, social benefits, etc. Hence the tensions that sometimes arise between migrants and nationals. As one of the people we spoke to said:

"Migrants settle in run-down districts. That is where, unfortunately, you see Moroccans living, with all the accidents that follow from it. And you also see, apart from the old, historic districts that are often in poor condition, you find them in working-class districts, with problems of confrontation, or rather [...] for example, you see Moroccans 'fighting' to obtain the same income as other persons of Spanish nationality who hark back to older migratory movements and find themselves in a situation, I think, of ethnic competition for access to the same schools, the same social resources, the same housing. One big problem is that, as people say, it is the last-but-one group to arrive who are the toughest on the latest arrivals, and I think that is quite true. Those who have themselves suffered from a process of settlement are the ones who, because of this ethnic competition for the same resources [...] For example, in schools, that's all they talk about: if there are children who receive a small allowance for meals in the school canteen, for travelling to school, if they have to take the bus or something like that, the thing you always hear people saying when there is a discussion is: yes, it's the Moroccans, the ones who arrived most recently, they get everything. Because of them, we don't get the allowances we used to [...] It really is one of the biggest problems we have, because it's very hard to counter

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10. Some members of the Ecuadorian community earn a living by cutting hair in public places (parks, streets, etc.) as part of the black economy.

this very widespread kind of talk. You hear it everywhere. Because of them, people who were in quite precarious situations [...] As if it was their fault. It's all the fault of the Moroccans [...]" (conversation with housing officer, Immigration Secretariat, Generalitat de Catalunya, Barcelona, March 2006).

These tensions are exploited by certain political groups, who seek to make political capital out of them. This is explicitly the case in Catalonia, with parties like *Plataforma per Catalunya* (PxC) which, although it polled only 0.15% of the vote in the Catalan elections of 2003, already has municipal councillors in towns with high immigrant populations such as Vendrell, Manlleu or Vic. It is also the case in France with the *Front National*, which since 1974 has made itself the champion of "the French" against "the immigrants". But many other political groups are also engaged on this terrain less overtly, whether the *Partido Popular* in Spain or the *UMP* in France, who have no hesitation, for example, in linking delinquency and immigration against all the evidence.<sup>11</sup> As for the parties of the left, it is through a new interest in urban security that they seek to alleviate these tensions: the punitive trend we have been describing is essentially their doing, in Catalonia as has been seen, but also in France and Great Britain.

Faced with rising tensions at the local level, witnessing the steady erosion of their election results among working-class voters and the simultaneous growth of xenophobic parties, many leaders of the European left have come to the conclusion that they can only win back these voters by turning to tougher security policies. So their analyses are based on the assumption of the "authoritarian personality" of the working classes. The implied philosophy running through the theories of Adorno, revisited by Seymour Lipset, assumes that this sector of the population is "authoritarian" in character, that is to say less open towards minorities, more submissive to authority, more repressive and so forth, than other social groups (Lipset, 1959). These assertions – and in particular the fact that they equate replies about morals (that is, the moral order) with political responses – have long since been invalidated by the social sciences without this detracting at all from their social and political effectiveness. For it is much easier to think that the working classes are authoritarian and demand greater firmness towards delinquents, single-parent families or immigrants, than to reflect on the competitive situations in which they are embroiled every day. Yet this competition in the unskilled labour market,

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11. For Europe, see Wacquant (1999) and Palidda (1996), and for Spain, see Wagman (2006).

for social housing and for family benefits seems, in a context of widespread precariousness, far more relevant to an understanding of tensions that will be verbalised in ways that appear by turns “racist” and “security-minded”. Keeping silent about this process enables political formations of both left and right to adopt a kind of authoritarian paternalism towards the working classes, which is perceived as the only way of countering the supposed political headway made by the forces of xenophobia.

Hence, the various measures which, from the “civic ordinance” in Barcelona to British control orders via the curfews imposed on minors in France, reinforce the spectre of police intervention – which, moreover, creates problems for the institution itself. As one police official said:

“This district is getting out of hand because the politicians have been taken unawares and they ask us, the police, to solve the problem and no social or integration policies, etc. have been put in place. In other towns they have, but not [in this district]. And that shows that in a town where all these kinds of transverse policies don’t exist, people are disconcerted, a lot of insecurity arises and they ask the police to solve a problem that isn’t just a police problem [...] For example, they complain about a North African walking along the street and looking in a shop window, so the shopkeeper is scared [...] Or about smells in an apartment block, or people they don’t know going up the stairs, talking in loud voices and they don’t understand what’s being said, or when they pass young North Africans on the pavement and they don’t move aside, or stare at them insolently [...] Sometimes the world seems to be upside down. In a meeting, in theory, the policeman ought to be the strictest person but in fact he is the most tolerant person there [...] Established patterns have broken down. It’s not right that I should be the one to defend the immigrants’ presence here [...] I’m telling you what happens [...] So what we try to do is to find a point of balance. He is a delinquent? OK, we’ll take action. He’s not a delinquent? It’s a problem of living together, of customs? Right, we have to find another solution. But the problem is that there is a certain trend towards a punitive populism, a tendency to apply repressive policies (*mano dura*) to migrants, and you yourself have to find the right balance” (conversation with the Chief of the Girona police district, Mossos d’Esquadra, Girona, March 2006).

It may seem surprising to hear a policeman talking about the appealing virtues of social policy, bearing in mind the close links that prevail in European welfare states between social policies and the social order.

### 3. What security in our advanced societies?

#### a. *Social policies and social order*

The industrial revolution that took place in the different countries of Europe – in a manner and at a pace that varied from country to country – posed wholly new problems. The huge drift from the countryside, and the physical concentration of uprooted labourers in the towns, destroyed the traditional ways in which working-class crime was kept in check on the basis of local, personalised authority. So the main concerns of political and social elites were to create discipline in the workplace and simultaneously to curb the disorganisation generated by the industrial revolution (urban over-population, delinquency, alcoholism, etc.) and the rising tide of socialist demands aimed at overturning the social order.

The first concern was to ensure that the workers came to work and worked as hard as possible. This inextricably practical and moral question lies at the root of the campaigns against alcoholism which, in England, led to 11 p.m. pub closure and in France to the prohibition of absinthe and the medico/moral warning about its dangers. But, while one has to ensure that workers go to work, they still have to be made to work properly. Edward P. Thompson (2004) has demonstrated in detail how checks on working hours and patterns of work in England was one of the main ways of controlling behaviour, not just in the workplace but also outside. The point was to minimise idleness (“the devil makes work for idle hands”, they said in France) and improvidence due to intermittent employment. Hence all the attempts to limit worker mobility, whether by coercive means (introduction of the workman’s record book) or by offering long-term contracts, indefinite-term contracts being the most recent manifestation of them. Giving this long-term status, which brought predictability to the working classes for the first time, helped to discipline their conduct, particularly as it was backed by the development of social policies.

Many social reformers in search of models that could replace the earlier philanthropic, paternalistic ones saw social policies as an excellent instrument for the acquisition of moral habits – especially responsibility and “providence” – by the working class, in conjunction with the improvement of social justice (Rabinow, 2006: 271 ff.). Health and hygiene were to become the main lines of intervention by these reformers, whether in the sphere of housing, morals or work. As Jules Siegfried (1837-1922) said, in words that foreshadowed the first social housing, “Do we want

to make people happy and at the same time true conservatives? Do we want to combat extreme poverty and the errors of socialism simultaneously? Do we want to increase the certainty of order, morality, political and social moderation? Let us build working-class estates!"<sup>12</sup>

This twofold dimension present in social policies, of improving living conditions and maintaining the social order, explains their widespread application in western democracies in a variety of forms. The rise of state interventionism linked to the Second World War; the communist threat embodied by the Soviet Union; economic growth promoted by governments, etc., all these are factors that go towards explaining this success. Even in Spain, the Francoist regime was forced to develop forms of social and wage protection in order to appease tensions, against a background of banning and criminalising social demands.<sup>13</sup>

### *b. Security policies and social order*

All that lies in the past. The economic crisis and changes in post-Fordist capitalism backed by programmes of liberal state reform have largely redefined, doubtless unintentionally, the conditions of that discipline. Greater flexibility in occupational status, the rise in precariousness and extreme poverty and the increase in economic inequality have undermined the Fordist model of discipline. The profound moral and social crisis affecting the working class world has expressed itself in a return to minor urban unrest, exacerbated competition inside this group and forms of withdrawal of which voter apathy is only one manifestation.

And just as the social reformers of the 19th century sought to lay the foundations of a new form of discipline, the security reformers of the late 20th and early 21st centuries have looked to greater police and judicial intervention and supervision as the means of countering the effects of the many upsets affecting the working classes. The "broken window" theory, situational prevention, curfews, video surveillance, anti-gang and anti-begging orders, etc. are nothing more than examples of these novel government technologies that are expected to guarantee social tranquility (Garland, 2001).

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12. Siegfried, J., *La Misère : son histoire,, ses causes, ses remèdes*, Le Havre, Poinsonon, 1880, pp. 195-199, cited by Rabinow (2006: 286).

13. For example, legislation made it very difficult to sack workers, which guaranteed great stability in employment.

But it is unlikely that these types of discipline can function. As Max Weber has shown, the foundation on which any authority rests is proportional to its legitimacy among the people over whom it is exercised, in other words, to what it can offer them in exchange (Weber, 1971). History teaches us that the construction of a peaceful social order is the fruit of efforts to overcome antagonisms that are a priori insurmountable. It was because workers and bosses – after sometimes violent struggles – looked for solutions acceptable to both parties that labour law came into being. It was because workers’ organisations and police forces came together that demonstrations were regulated and became less violent. It was because notables and political groups emanating from the working classes negotiated with each other that the latter agreed to play a part in parliamentary politics (Tilly, 1986). In a word, it was because individuals with opposing destinies and social interests sought areas of agreement – or rather agreed to disagree – that they were able to occupy the same playing field. Each of them went through a learning process to understand the other’s perceptions and objective constraints and include them in his own. They also acquired a common language, or at least an identifiable and foreseeable language, through which to express their views. And it was all these processes together which enabled our societies to be pacified.

Nothing of this exists in the plans of the security reformers, for whom entire social groups are inherently suspect (the “young unemployed foreigner” being the stereotype) and are denied the status of legitimate interlocutors.<sup>14</sup> On the contrary, whereas social policies aimed to reduce the gaps between social groups, present-day security policies exacerbate the differences between “good” and “bad” citizens and emphasise each person’s “individual responsibility”.

In this development, combating discrimination, essential and insufficiently advanced though it is, cannot be enough. By focusing only on equality of treatment it remains blind to inequalities of condition, which are one of the key factors in social cohesion. It is important and necessary to combat racism where it exists in the police, for example. But the fact that Afro-American police officers are the ones who mainly operate in Chicago’s black ghetto does not prevent that community from being hugely over-represented in North American prisons.

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14. For these processes of stigmatisation, which were reinforced after 11 September 2001, reference is made to the work done in the framework of the European Commission’s programme “The Changing Landscape of European Security” (CHALLENGE), available on [www.libertysecurity.org/](http://www.libertysecurity.org/).

Every European state is affected today by social marginality, to varying degrees, depending on history and local situation. It has created divisions inside the disinherited regions of the social world and exacerbated tensions both inside and outside them. As the Catalan example very well illustrates, these tensions flow directly from the contradictions at the very heart of the development models that have been chosen over the past twenty or so years – contradictions in which the efforts which some people make to ensure order are nullified by the organised disorder desired by others. Like it or not, security and existential security are inseparable, just as insecurity and existential insecurity are. As can be seen from the sporadic explosions of violence (by working-class youths, directed at migrants) that sometimes hit the headlines, overlooking these simple principles is bound to lead to disastrous forms of radicalisation that will only strengthen the underlying causes. Here, no doubt, lies the most crucial challenge to a Europe concerned by social cohesion.

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### **III. Migration and demographic issues in Europe: policy implications**

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#### **Introduction**

European demography is giving rise to a growing amount of scare-mongering: population “ageing”, which too often comes down to the deteriorating dependency ratio, in other words the ratio of retired people to those of working age, is apparently leading to a decline that is as predictable as it is inevitable. Two types of solution are normally proposed: raising the retirement age in order to reduce the cost of funding pensions, and using immigration to offset the future drop in the working population stemming from the fact that generations are being only partially replaced. This approach to ageing highlights the dominance of economic analysis focused on containing lifetime labour costs, whereas in fact Europe’s demographic weakness is a far more complex societal issue.

The confusion generated over the very concept of population ageing raises the issue of how the fear of ageing is being exploited in public debate. In particular, the question arises as to the need to maintain a constant ratio of retired people to those of working age in a world undergoing enormous change, and as to the ambiguity of migration policies that retain a highly economic emphasis in spite of continual references to demographic issues. Lastly, at some remove from Europe’s real demographic issues, is the fear of ageing not being used to challenge the gains made in the second half of the 20th century in terms of the duration of working lives and total lifetime earnings?

#### **1. Ageing: a concept that is inappropriate for describing a complex phenomenon**

The concept of ageing, borrowed from individuals, is highly inappropriate for the purposes of describing demographic trends. A population does not have an age in the usual sense, but rather an average age that changes independently of the passage of time. It is true that this average age may increase as a result of longer human life expectancy, which boosts the elderly population, but it may also increase as a result of a falling birth

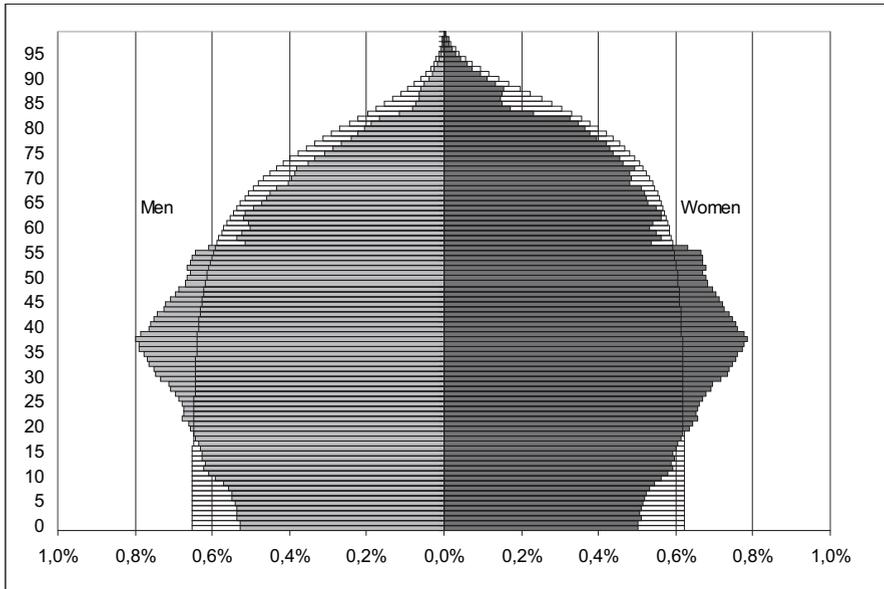
rate, which reduces the proportion of young people, or it may be a combination of both factors. In addition, the inertia of demographic trends means a population's average age depends on its previous demographic history. Migration flows – in or out of the country – can also alter the age structure of the population in question.

Encapsulating the impact of these various factors in the single term “ageing” blurs our understanding of this trend, particularly given that the word's negative connotations cast the entire phenomenon in a bad light, whereas in fact the increase in the average age of death is acknowledged to be a major achievement.

Measurements of ageing add to the confusion. What is most often measured is the change in the relative size of different age groups between two dates. Naturally, this method depends entirely on the dates selected. If, for historical reasons, the population structure on the initial date is heavily imbalanced in favour of younger age groups, ageing will clearly not have the same impact as if the structure were balanced, or already imbalanced in favour of higher age groups. For example, there was a very sharp increase (+68%) in the number of men over the age of 75 in France between 1995 and 2003, primarily because there were very few men aged over 75 in 1995. There were two historical reasons for this: the low number of births as a result of the First World War and the high number of deaths as a result of the Second World War. It is true that the increase in the number of over-75s is a form of ageing, but if a parallel is to be drawn with human life it would be more sensible to compare it to the ageing of young people between the ages of 15 and 20, for example, rather than to that of people in the final years of life.

This serious bias – which is common – may be avoided by measuring ageing in relation to a balanced reference structure. Such a structure exists: the stationary population based on the mortality table for a given population. In a hypothetical state of equilibrium, in which fertility exactly offsets mortality and the number of births is indefinitely equal to the number of deaths, a population's age structure is wholly defined by its mortality distribution. This is not an absolute or ideal reference structure, but a relative reference structure based on the mortality rate at a given point in time. For instance, owing to Europe's complex history, the average age of its population in 2003 was 39.9 years, while on the basis of its 2003 mortality rate its average age ought to have been 40.4 years. Does this mean the European population is still young? The reality is more complex, for in this case the average conceals a highly specific distribution, as shown by the graph below.

**Figure 1: Population pyramid for the population of the 25-member EU on 1 January 2003 and stationary population based on mortality**



Source: Eurostat (<http://epp.eurostat.ec.europa.eu>). Graphic by the author.

On 1 January 2003, the population of the 25-member EU was neither young nor old, since the groups at either extreme were under-represented in comparison with the equilibrium situation shown by the transparent area of the above graph. On the other hand, it was heavily imbalanced in favour of working-age people, as seen in the table below.

**Table 1: Age structure index. Population of the 25-member EU on 1 January 2003 (%)**

Age group	Men	Women
0-19	90	90
20-59	111	114
60 and over	83	89

Source: Calculations by the author (note that in the actual population, the number of men under the age of 20 was 90% of the hypothetical figure based on the 2003 mortality rate).

Economically speaking, the over-representation of working-age people is usually seen as an advantage, yet this economic interpretation is the root cause of our great fear of demographic trends. The inexorable process of individual ageing will considerably alter the age structure of Europe's population over the next 20 to 30 years. Once those cohorts born at a time when the birth rate was high reach the age of 60, they will be replaced by the next cohorts, born at a time when the birth rate was low; the distribution will be reversed, with working-age people under-represented and those outside the labour force over-represented, particularly as life expectancy will doubtless continue to increase.

An analysis of the age structure in relation to hypothetical population figures based on the mortality rate at a given point in time, clearly shows that the phenomenon known as "ageing" is the result of two separate trends at the top and bottom of the population pyramid. The two trends call for different responses.

The form of ageing I shall term "positive", since it stems from increased life expectancy, is inevitable. The only way to avoid this form of ageing would be to increase the mortality rate among the elderly, which no one is suggesting, or to achieve a fertility rate well above generation replacement level, so as to reduce the relative proportion of senior citizens by boosting the proportion of younger people. This solution, which is unrealistic in the context of Europe's current low fertility rate of approximately just 1.5 children per woman, is also totally impossible in the long term, for it would necessitate an ongoing population explosion that the planet would soon be unable to accommodate. With constant annual population growth of just 1%, France's population would reach 1.1 billion by 2300. Positive ageing is not a demographic problem in itself, although it does raise a genuine issue regarding the funding of retirement pensions. As we shall see, however, this is a political problem relating to redistribution of the wealth produced rather than a demographic problem relating to the number of productive people.

The birth deficit, which is reducing the bottom of the population pyramid, is giving rise to what I shall call "surplus ageing", in that it is a form of ageing that compounds the positive ageing brought about by longer human life expectancy. Such surplus ageing raises a real demographic problem, since the drop in the birth rate will eventually result in a declining population; this cannot go on for long without the population simply disappearing. Surplus ageing therefore necessitates a demographic input, which can be achieved only by means of a higher birth rate or continuous

immigration. As we shall see, both solutions are costly: either in financial terms, in the case of the birth rate policy, or in terms of national identity and integration processes, in the case of the migration policy.

## **2. Exploitation of demographic fears**

While increased life expectancy is not a demographic problem in itself, the associated change in the ratio of retired people to working people will eventually raise the issue of the sustainability of pension funding arrangements. In a show of unanimity, almost all political and economic decision makers are suggesting the straightforward solution of avoiding a deteriorating dependency ratio (ratio of retired people to working people) by raising the retirement age. The European Commission, for instance, in a recent communication entitled “The demographic future of Europe – from challenge to opportunity”, suggests raising the employment rate among senior citizens so as to boost the working population, but without making the least reference to the unemployment rate among those same senior citizens, or explicitly stating the benefits of increasing the number of economically active senior citizens seeking work (European Commission, 2006). The UN, for its part, has quantified the necessary increase in the retirement age in a still-renowned report entitled “Replacement Migration: Is It a Solution to Declining and Ageing Populations?”. The report relies on fear of the astronomical immigration levels necessary to maintain a constant 1995-level dependency ratio in order to secure acceptance of its main conclusion: “in most cases, the potential support ratios could be maintained at current levels by increasing the upper limit of the working-age population to roughly 75 years of age” (United Nations, 2000: 6).

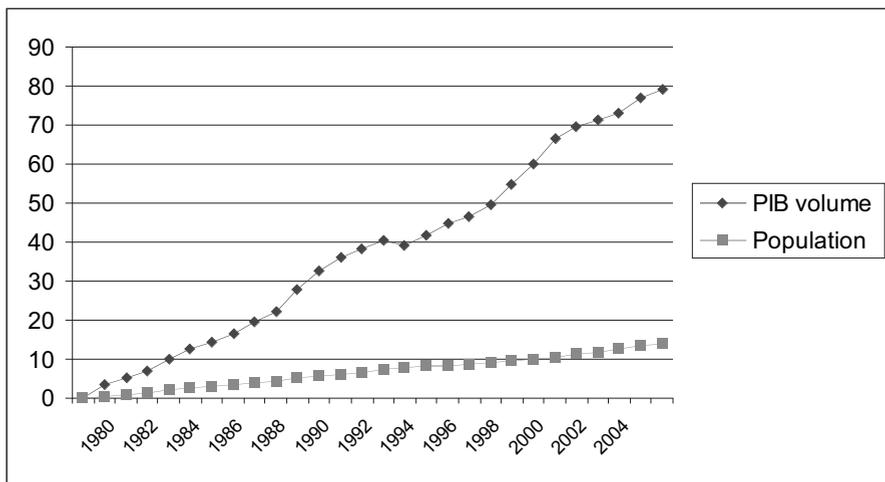
While the migration figures calculated by UN experts are unrealistic – by 2050 Europe, for example, would have to receive a number of migrants equal to one and a half times its current population – they are based on a scenario that every demographer is perfectly well aware is unrealistic. Wishing to maintain a constant situation that is heavily imbalanced from the outset in favour of younger age groups would necessitate a continuous population explosion; as we have seen, this would soon saturate the planet.

A more scientific approach would be to reconsider the need to maintain a constant dependency ratio. The development of a welfare state that assumes responsibility for health and retirement pensions owes a great deal to the demographic imbalance in the second half of the 20th

century. The low fertility rate in the early 20th century and the ravages of the First World War meant there were very few elderly people during this period of major social reform. The very low number of pensioners – pensioners are large consumers of health care – made it possible to introduce an effective social protection system after the Second World War without putting a strain on the rest of the economy. Should the historical benefit of this temporary demographic imbalance in favour of young people be sacrificed because of a new demographic imbalance in the opposite direction? This is the implication of arguments based on a constant dependency ratio, but the world has not remained constant over the last half-century.

It is true that wealth is still generated by working people, but it is the product of the number of working people multiplied by the labour productivity rate, which has increased considerably. Wealth production has grown far more quickly than total population numbers; even if it is slowing down, the trend is not about to stop. There is no limit on labour productivity growth, whereas population ageing is limited by the length of human life.

**Figure 2: Increase (%) in France's GDP volume and population between 1978 and 2005**



GDP source: INSEE ([www.insee.fr/fr/ffc/figure/NATTEF08112.XLS](http://www.insee.fr/fr/ffc/figure/NATTEF08112.XLS)). Graph by the author.

Over the last 25 years in France, for example, notwithstanding a considerable increase in life expectancy, a real reduction in working hours, a

deteriorating dependency ratio and a substantial rise in unemployment, a comparison between GDP growth (in terms of volume) and the population shows a sizeable differential in favour of wealth production. The volume of GDP increased by 80%, while the population grew by just 15%.

Although the suitability of the method used to calculate GDP may be debated *ad infinitum*, the growth differential in relation to population numbers is such that it may be stated with certainty that the pension funding issue is not a question of lack of wealth production resulting from a shortage of working-age people, but one of distributing the wealth produced. It is not a demographic issue stemming from a lack of productive workers, but a wage and salary issue.

Retirement pensions are, of course, a specific component in the cost of labour, and increased life expectancy has boosted workers' total lifetime earnings without any wage battles. This fragile gain is the real issue when it comes to pensions. If the retirement age is not put up, the payment of pensions to a growing number of senior citizens will necessitate higher contributions or another form of levy that will drastically reduce either the incomes of working people or business profits, depending on the balance of power at the time. If the retirement age is raised, the overall cost of labour and thus workers' total lifetime income will be reduced without any overt conflicts over wages and salaries.

In France, while the prevailing ideological approach advocates raising the retirement age, the figures show that other solutions are feasible. The Retirement Pension Advisory Council "has undertaken a valuable simulation exercise in respect of possible solutions for reaching an equilibrium in 2020. 1) Maintaining a constant earnings replacement rate of 75% without putting up contributions would mean raising the average retirement age by about three years. 2) Achieving the same objective without raising the retirement age would necessitate a four percentage point increase in pension contributions. 3) Covering the financial imbalance without raising either contributions or the retirement age would mean reducing the replacement rate to 62.5%" (COR, 2007).<sup>1</sup> Maintaining the existing system by increasing contributions without any direct drop in wages and salaries would thus effectively increase total wages and salaries – direct and indirect – by a sum equivalent to four contribution percentage points by 2020. Compared with stock market returns and the growth in big

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1. An analysis of this report, adopted in January 2007, can be found in the revue *Protection sociale* (No. 572, 10 January 2007).

business profits and the incomes of large employers, four percentage points in 14 years – less than 0.3% per year – seems fairly reasonable. Surely our economy is strong enough to cope with such an increase?

The issue of pension funding is, in fact, a new kind of wage battle. Employees are not in conflict with their employers directly, but through the intermediary of the government, since it is the latter that sets the rules on retirement pensions. In this type of conflict, strikes are replaced by electoral sanctions, and the advantage of a demographic alibi is obvious. The rhetoric about ageing has the great advantage of laying the blame on employees themselves. If you did not live as long, or if you had had more children, the retirement age would not need to be raised.

Constant repetition of this rhetoric obscures the debate about the benefit of reducing life expectancy among retired people in rich countries. The way this is phrased may seem shocking, but it is the objective outcome of raising the retirement age. In the late 1950s, the retirement age was 65; life expectancy was 70 years, or five years of retirement. In 2005, the respective ages are 60 and 80; we have gained 15 years of free time. In France, the gradual increase in the contribution period required for a full pension already makes it impossible for many employees to retire at 60 except on a reduced pension, which is another way of reducing total lifetime earnings. Comparable reforms have been implemented in a number of European countries in recent years, and the subject comes up as a central issue from time to time.

Moreover, the pension issue raised by positive ageing at the top of the population pyramid also affects the phenomenon of surplus ageing at the bottom of the pyramid. It is true that retired people do not bear children; except in the case of a privileged minority, however, longer working lives are experienced as a backward step for society, which is scarcely conducive to the confidence in the future necessary to increase the fertility rate among the children and grandchildren of today's senior citizens. In whose interests is it, then, to go back half a century? Certainly not those of unemployed working-age people hoping for opportunities in the wake of the mass retirement of baby boomers.

### **3. The demographic conflict of interest and the issue of inequality**

Unlike positive ageing, the surplus ageing associated with Europe's low fertility rate is a real demographic problem. As stated above, in the absence

of compensatory migration, the fertility rate cannot remain constant at 1.5 children per woman without the population eventually disappearing. We are not at that stage yet, but all the population projections are consistent: Europe's population is expected to level out<sup>2</sup> within 15 years before dropping fairly sharply in subsequent decades.<sup>3</sup> Does Europe face an inevitable demographic decline?

Has the liberal capitalist system definitively created the social conditions needed to reproduce its own population? Have we reached the ultimate contradiction – will Marx's prophecy about capitalism collapsing under the weight of its own contradictions be realised a century and a half late? If we believe this, we are forgetting that the purpose of population projections, according to the aphorism coined by Alfred Sauvy,<sup>4</sup> is to "foresee in order not to see". They are designed to facilitate the realisation of the principle of homeostasis, a concept referring to the property whereby complex systems maintain themselves in a dynamic equilibrium by means of continual adjustments. Europe, particularly through the Commission's research, is exploring two avenues for making such adjustments: policies aimed at increasing the birth rate and migration policies.

Policies aimed at increasing the birth rate have the advantage of tackling the problem's root cause, but they come up against, on the one hand, a still very limited understanding of the numerous factors interacting to cause the current low fertility rate and, on the other, the scale of the economic interests at stake.

Europe's declining fertility rate is usually interpreted as being the product of a "conflict of interest between the outcome of individual reproductive decisions and the collective benefit of long-term demographic

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2. The population pyramid for Europe's population allows slight population growth from time to time, even though the fertility rate is below generation replacement level (2.1 children per woman). Because women of child-bearing age are over-represented, the number of births is still relatively high in spite of the low fertility rate; at the same time, older cohorts with the highest mortality rate are substantially under-represented, resulting in a fairly low number of deaths.
  3. A temporary drop may be perfectly acceptable if the population level reached is considered too high in the light of consumption levels and the planet's capacity. However, aside from the fact that it seems wholly unfeasible to determine the optimum population level, accepting a temporary drop in order to reach the desired level would simply postpone the problem of demographic equilibrium by a few years.
  4. Alfred Sauvy (1898-1990) is acknowledged as one of the forefathers of French demography.

equilibrium" (Demeny, 2006). This approach implies that individuals act rationally, in accordance with their immediately obvious individual interests. From this rationalist perspective, parents choose how many children to have by more or less consciously weighing up the adverse financial repercussions (children cost their parents more money than they bring in) and the emotional benefits. It follows that reducing the cost to parents of bringing up a child should automatically reduce the impact of the adverse financial repercussions, thereby boosting fertility.

Aside from the fact that this approach does not give due weight to the non-financial costs, in terms of available time for instance, its application is restricted by issues relating to the distribution of national wealth. Family benefits, discounts for large families, free services for children and so on, all have a value, which may to some extent be regarded as an indirect income supplement for parents. The size of the latter is a genuine issue affecting wages and salaries: what is distributed in the form of benefits for demographic purposes cannot be distributed to other categories of people in the form of income or used to increase business profits. In actual fact, via the question of using benefits to redistribute income among social groups, this economic conception of policies aimed at increasing the birth rate raises the major issue of how social inequalities contribute to the low fertility rate. While such an economic approach is genuinely relevant, sooner or later the liberal capitalist system will have to agree to reduce inequalities if it is to continue to reproduce. In our society, however, the idea of reducing inequalities generates numerous objections; these are all the more effective given that the demographic conflict is a silent one. Parents who choose to have just one child or none at all do not feel they are going on a "reproductive strike";<sup>5</sup> they are not marching in the street, but simply adapting more or less consciously to a situation of social insecurity over which they have little control.

Perhaps in order to avoid addressing the issue of reducing inequalities, another approach, predicated on the same premises about parents' financial rationale, advocates restoring the links of dependency between senior citizens and their own children. David Cosandey (2003) argues that the security afforded to workers by an effective pension system in the second half of the 20th century freed them from the ancestral requirement to have several children as insurance for their old age. He argues

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5. This concept, current in late 19th-century anarchist circles, was taken up by early 20th-century feminists including Marie Huot, who coined the slogan, "a reproductive strike until society undergoes a revolution".

that declining fertility stems from this material situation; as a solution to the demographic issues, he therefore suggests that pension entitlements be based on the number of children people have. It is a radical principle – “no children, no pension” – although it does allow infertile, or insufficiently fertile, couples to acquire pension entitlements during their working lives if they have the means to do so. The advantage of this approach is that it attempts to restore links of solidarity between generations; above all, however, it shows that, given the foreseeable costs of an effective incentive-based policy aimed at increasing the birth rate, coercion is still a temptation in democratic countries.

#### 4. Migration as an alternative, but on what conditions?

##### a. Contribution to generation replacement

Incentive-based policies aimed at increasing the birth rate are costly, while linking retirement pensions to the number of children people have entails radical reforms that would be difficult to implement; in either case, the results are neither certain nor immediate. Given the disadvantages of birth-rate policies, are migration policies – which are much more straightforward to implement – an alternative or, more modestly, an acceptable complementary solution? In other words, even if we do not seek to offset all the effects of ageing, since it is impossible to maintain a constant dependency ratio in the long term, might immigration be at least one solution to Europe’s low fertility rate?

In purely statistical terms, immigration could completely offset the low fertility rate. In a European population stabilised at its current level of 460 million, each generation should include just under 6 million children. With the current fertility rate of 1.5 children per woman, approximately one quarter of each new generation – or 1.5 million children – is missing each year.

**Table 2: Net migration in Europe, including corrections (in thousands)**

	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
<b>UE 25</b>	1 118.5	826.0	632.5	732.7	658.0	468.5	644.6	905.7	993.2	1 311.5	1 707.3	2 091.5	1 852.3
<b>UE 15</b>	1 216.1	896.9	678.8	765.9	684.2	482.8	665.1	903.2	1 055.6	1 321.8	1 701.2	2 052.1	

Sources: European Commission, 2005 (1992 to 2003), Eurostat, 2005 (2004).

With recent inflows into Europe of around 1 to 2 million people (see Table 2), migration could offset the deficit in natural population growth, provided that we are prepared to accept continuous immigration at this level.

This purely quantitative approach does not reflect the reality of migration patterns, however. Immigrants have very diverse backgrounds, desires, cultures, nationalities and economic roles that invalidate any rationale based on quantitative equivalence. In our society, affirming that “all human beings are born free and equal in dignity and in rights”<sup>6</sup> is not sufficient to make a Malian immigrant equivalent to a Canadian immigrant. Nor does Article 1 of the Universal Declaration of Human Rights guarantee the non-existence of discrimination between immigrants and European citizens, even where immigrants are to become citizens of the host country.

While it is possible, quantitatively speaking, for Europe to accept roughly 1.5 million immigrants each year, socially speaking this will be feasible in the long term only if we are prepared to accept the implications for national identity and immigrants’ position in society. We cannot attempt to offset the low fertility rate by means of large-scale immigration without accepting the implications of settlement migration.

#### *b. A narrowly economic view of migration*

Notwithstanding the constant references to Europe’s demographic crisis, the official rhetoric on immigration is still centred primarily on the labour needs to be satisfied. Even the concept of “replacement migration” focuses on changes in the economically active population. French migration policy is no exception: the rejection of “endured immigration” in favour of “selective immigration” based on migrants’ economic attributes is consistent with such an approach, aimed at optimising the economically active population. As during the post-war boom period, immigrants are still regarded as merely an additional labour force. It is true that nowadays host countries no longer – as they did in the past – overlook the fact that immigrants will have to integrate, but they give the impression they are secretly hoping such immigration will not alter the existing social equilibrium. Unlike Quebec, France, for example, is still a long way from seeing itself as a multicultural society.

In the aforementioned communication entitled “The Demographic Future of Europe”, the European Commission’s approach to migration flows is far

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6. Article 1 of the Universal Declaration of Human Rights (1948).

more economic than demographic in focus: “the EU today is working with the Member States to develop elements of a common policy on legal immigration, focusing particularly on immigration for work purposes in order to satisfy requirements in certain sectors of the labour market. This policy should be supplemented by tighter policies on integrating third-country nationals, allocating greater financial resources, and by striking up partnerships with emigration countries” (European Commission, 2006: 11).

In its “Policy Plan on Legal Migration”, however, the Commission states: “Immigration does not provide in itself a long-term solution to falling birth rates and an ageing population, but it is one of the available tools within a broader policy mix” (European Commission, 2005: 5). Notwithstanding this statement, it regards immigration solely as a tool for satisfying the need for labour, and some of its proposals are even incompatible with the idea of using immigration to combat the falling birth rate. One section is devoted to the development of temporary immigration, which naturally cannot boost Europe’s birth rate. This section, entitled “Instruments to support circular and return migration”, follows on from three proposals for specific directives on temporary immigration (out of four proposals for specific directives).<sup>7</sup>

The 2005 text is thus inconsistent with a 2003 communication from the Commission that stated: “Public authorities frequently refer to the temporary and even seasonal nature of the immigration they are willing to allow, but this is not often realistic. [...] One must also bear in mind that [...] the attenuation of the demographic imbalances which are expected in the medium term will depend largely on permanent immigration” (European Commission, 2003: 16). This inconsistency highlights a conflict between contradictory interests. The principle of resorting to immigration is accepted as a means of avoiding or postponing the social changes needed in order to bring about an upturn in European fertility. When significant migration flows actually take place, however, European countries wish to guard against their repercussions on national identity. All that remains, then, is the “not often realistic” hope of organising temporary economic migration: the fact that “the attenuation of the

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7. See sections: 2.2.2. A proposal for a directive on the conditions of entry and residence for seasonal workers; 2.2.3. A proposal for a directive on the procedures regulating the entry into, the temporary stay and residence of Intra-Corporate Transferees (ICTs); and 2.2.4. A proposal for a directive on the conditions of entry and residence of remunerated trainees.

demographic imbalances which are expected" (ibid.) is thereby being sacrificed is overlooked.

*c. Double talk about illegal immigration*

Quantitatively speaking, an annual influx of 1.5 million immigrants produces the same impact in terms of settlement, irrespective of whether the reasons it is accepted are economic or demographic. When it comes to social cohesion, however, the rationale for resorting to migration is crucial. Notwithstanding the humanist rhetoric about migration, states desiring economic migration – temporary if possible – will not offer the same prospects for long-term integration as those desiring settlement migration. It is doubtless no coincidence that the United States and Canada offer much quicker access to citizenship than Europe does.

While social cohesion clearly calls for action to combat all forms of discrimination, in the context of the mass immigration policy that would be necessary in order to offset Europe's low fertility rate, reducing the discrimination to which groups of foreign origin are subjected becomes a challenge equal to their future position in society. Yet such discrimination stems largely from the way migration is organised, particularly the role played by illegal migration. The latter is, in fact, conducive to discrimination, both directly in that illegal immigrants do not enjoy any rights to protection, and indirectly in that it stigmatises the entire communities to which they belong.

Every government has an official policy of combating the legal immigration, but the main reason it continues to be ineffective is perfectly obvious. This type of immigration can never be successfully reduced by tracking down illegal immigrants without genuinely tackling the sizeable hidden labour market that is the main incentive for illegal immigration. Yet such hidden labour, involving legal workers for the most part,<sup>8</sup> is largely tolerated, judging by the limited resources put into curbing it.<sup>9</sup>

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8. According to Colette Horel, Interministerial Representative with responsibility for combating illegal labour, the "employment of foreigners without permits accounts for just 10% of all recorded illegal labour offences" (see [www.senat.fr/bulletin/20060220/immigration.html](http://www.senat.fr/bulletin/20060220/immigration.html)).

9. In 2004, France had just 459 labour inspectors and 912 officers responsible for carrying out checks. On average, each officer was responsible for monitoring 1 613 workplaces. These numbers suggest that inspections are fairly infrequent, even if they are targeted.

Illegal immigration itself appears to be tolerated to some extent. It is true governments are clamping down on illegal immigrants, with thousands of people being escorted back to the frontier or deported. For various political or practical reasons, however, these people account for just a fraction of all known illegal immigrants (20-30%). During the 1998 regularisation exercise, senators then in opposition ended up coining the – somewhat extraordinary, all things considered – expression “official illegal immigrants”.<sup>10</sup> The situation that prompted the invention of that expression under the Jospin government is now happening all over again with those whose applications are to be regularised under the Sarkozy scheme (6 924 people had their situation regularised<sup>11</sup> and 26 614 were rejected and are supposed to be deported, but will not be sought out if they fail to come forward).

This semi-tolerance keeps illegal foreigners in a state of constant fear of expulsion, without actually bringing about a significant reduction in their numbers. The fear of identity checks puts illegal foreigners in an extremely weak position vis-à-vis their employers, who thereby benefit from an abundant, docile labour force for which they do not have to pay any social security contributions, which does not enjoy protection under labour law, is very flexible, prepared to accept low wages and is not fussy about working hours or conditions. Noting that these are all the features sought by companies relocating their production operations to emerging countries with low labour costs, Emmanuel Terray (1999) has likened the economic rationale for employing illegal immigrants to a kind of *in situ* relocation. In this respect, the employment of illegal foreigners is an economic strategy on a par with conventional forms of relocation.

In this context, in which illegal immigration and the associated discrimination – including discrimination against legal migrants – are structural components of the economy, the use of mass immigration to offset the low fertility rate imposes impossible choices. Either we agree to reconsider the economic rationale for discrimination against immigrants, or we abandon any hope of social cohesion.

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10. Far from clarifying the illegal immigration situation in France, the regularisation operation has generated two new categories: foreigners whose situation has been regularised and those whose applications have been rejected, who will to some extent become “official illegal immigrants” provided that they can evade discovery (see [www.senat.fr/rap/197-4701/197-470158.html](http://www.senat.fr/rap/197-4701/197-470158.html)).

11. See *Le Monde* of 20 September 2006.

Combating discrimination against illegal immigrants is by no means easy; surely, however, the main cause of their vulnerability could be eliminated by giving them the freedom to immigrate. This option, often viewed as irresponsible, is worth exploring. Migration controls are supposed to protect the jobs and standard of living of rich countries' populations in the face of competition from poorer foreign workers, who would undoubtedly invade us if our borders were open. Is that protection effective?

This is doubtful, given that competition already exists, even without free movement of workers. Trade globalisation means it is factories and offices that move about freely rather than workers. Relocation has been incorporated into Adam Smith's theory. The supply of work and that of cheap labour converge abroad, without workers enjoying the freedom to immigrate. Where the nature of the work in question means it has to be performed in the country itself – building, the hotel business and so on – relocation *in situ*, made possible by the semi-tolerance of hidden labour and illegal immigration, takes up the slack.<sup>12</sup>

Given that the lack of free movement is ineffective in protecting host countries' workers, could we not change our strategy? Effective action to curb hidden labour would eradicate this form of illegal competition, while far more stringent labour legislation would afford national workers at least equivalent protection. The issue of illegal immigration and the associated discrimination would thereby be resolved, making it possible to envisage immigration aimed at offsetting demographic weaknesses more serenely.

## Conclusion

The ongoing fall in fertility below generation replacement level is a real demographic problem. It combines with the pension funding crisis, in itself simply an issue of redistribution of the wealth produced, to form a disparate whole designated by the negative term "ageing". Efforts to find a solution to this crisis – which, although significant, is a long-term one and relatively silent – are being undermined by more immediate economic interests. The pension-funding crisis is being used to extend lifetime working hours, thereby increasing business profits. We readily overlook the fact that this policy, coupled with greater flexibility and reduced

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12. *In situ* relocation also involves sectors such as luxury manufacturing, which could undoubtedly be relocated but which use *in situ* relocation to increase their margins without suffering the disadvantages of expatriation.

job security for young people, will only exacerbate the fertility crisis, eventually increasing its total cost. The approach taken to migration issues is equally blinkered. All the research indicates that without an effective policy to increase the birth rate, Europe will need a settlement migration policy; the only migration policy being implemented, however, is one linked to labour needs, leaving considerable room for illegal migration and the associated discrimination, which undermine any hope of social cohesion in the society that is taking shape.

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## **B. The welfare state: between inequality and universalism conscious of diversity**

### **I. Welfare systems and migrant minorities: the cultural dimension of social policies and its discriminatory potential**

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#### **Introduction**

The histories of welfare states and international migration in Europe after the Second World War are closely interlinked. The phase of expansion and consolidation of these welfare states from the 1950s until the 1970s was also the major period of post-colonial immigration and active recruitment of labour migrants, which constituted the main paths for subsequent migrations to Europe. The recent efforts of European welfare states to adapt their welfare systems to the challenges of increasing competition in globalised markets are connected internally with policies of migration and integration; these try to restrict access to state territories for migrants seen as insufficiently competitive on the one hand and, on the other, to enforce the social integration of long-term resident migrants as an integral, programmatic part of activating welfare policies. The infrastructure and policy designs of European welfare states still differ, and therefore so do the modes of welfare inclusion and participation of migrants. A shared experience, however, is that large parts of the migrant populations in each country belong to the most disadvantaged groups in terms of access to the labour market, occupational positions and income, educational achievement, housing or health. European welfare states are, however, seen – to a varying extent – as institutions that should provide all individuals living permanently on their territory with the means to overcome disadvantages and gain access to resources that will allow them to share in a commonly accepted standard of living.

The fact, however, that many immigrants in European welfare states remain disadvantaged compared with the indigenous population provides the basis for assumptions that this may be due to unequal treatment – quite a challenge for European welfare states, which claim to be guided by constitutionally-embedded universalism and equal and non-discriminatory treatment. Since one of the effects of immigration is cultural and ethnic pluralisation and the formation of ethnic minorities, it is proclaimed that social disadvantages and inequality may well be the outcome of cultural or ethnic discrimination built into the structure of national welfare states.

This chapter deals precisely with this question. Are European welfare states and their social policies impregnated by implicit or explicit cultural models, and do they have discriminatory effects on ethnic minorities concerning their access to welfare provisions and social security? In order to answer this question, a number of conceptual clarifications are needed: (a) the introduction of a concept of welfare and welfare states and the related social policies; (b) a clarification of what is meant by cultural models implied in the provisions of welfare states; (c) a definition of minorities: and (d) a discussion if there are systematic structural reasons for the discrimination of ethnic minorities involved in the cultural models implied in welfare states. The argument is developed in four steps:

1. a conceptual understanding of the welfare state is introduced;
2. the question is discussed whether welfare states represent different welfare cultures and if this provides the basis for cultural discrimination, a concept defined in this context;
3. the relationship between migrants and welfare states is analysed in order to clarify whether there are structural reasons for cultural discrimination due to this relationship itself;
4. the systematic reason for structural welfare disadvantages experienced by migrants is discussed and finally it will be concluded that cultural discrimination occurs when welfare states use particularity and cultural differences as an internal principle for the organisation and provision of welfare.

## **1. Modern welfare systems**

Despite the many political disputes about the appropriate form and extent of social security provided by welfare states, only rarely is the point put in

a straightforward way<sup>1</sup> that the best welfare state would be no welfare state. The reason for this seems to be that social order itself is based on a risky model of social inclusion. With the arrival of modern (world) society, the participation of individuals in society is no longer based on any unitary principle of inclusion. There seems to be so much discussion about and insistence on individual rights of participation and social inclusion precisely because both are not guaranteed but risky or even unlikely.

The early historical experience of modern society is that there is a high risk of failure of social participation. There was and there is no automatic inclusion of individuals in society.<sup>2</sup> The social conditions of inclusion in modern society, that is, the mode by which individuals become engaged, are defined by the differentiated social systems of society, such as the economy, the law, education or health. If individuals fulfil the functionally specific requirements of these systems (as workers, claimants, pupils or patients, respectively) then they may be included. Individuals are perceived in relation to their relevance to these social systems: everything else is left out of the account.<sup>3</sup>

In reaction to the breakdown of pre-modern stratified orders of inclusion, the modern state has sought to deal with the political mediation of the chances of inclusion and exclusion (Bommes, 1999). The modern nation-state is defined by the execution of sovereignty over a territory and a population. This was, right from the start, linked with the emergence of

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1. Except for many economists, who believe in the superior rationality of markets but seldom have to take political responsibility for any seriously proposed model of Platonism.
  2. The concepts of inclusion and exclusion are used here in a rather technical manner, implying no normative assumptions: inclusion formally speaking is the way in which individuals are addressed in social contexts as relevant for actually ongoing social processes; exclusion correspondingly refers to the irrelevance of individuals – and this does not always indicate a “social problem”, e.g. the irrelevance of an individual for the health system means that the individual is healthy and thus not a relevant case for a doctor or hospital.
  3. This means, on the other hand, that social inclusion in modern society presupposes the exclusion of individuals as “totalities” from society in the sense that they are not predefined by social bonds or some principle of belonging (Luhmann, 1989). Instead, individuals become socially defined by their personal histories of inclusion and exclusion in different social realms, i.e. their careers and biographies. This is the basic reason for the central importance ascribed to biographies and careers in modern society – formerly unknown – and for the increasing awareness that the success of welfare or social policies depends to a large extent on their capacities to allow individuals from childhood onwards to build up a career (Esping-Andersen, 2002).

the welfare state (Swaan, 1988). By providing chances for participation in the social realms of the economy, law, health or education – that is, as a welfare state – the nation-state created the social preconditions for a process in which former subjects became political citizens. This was a process in which the inclusion of the whole population into the political system as individual citizens, and the claim of political sovereignty over these, could gain political legitimacy and universal validity. The welfare state left behind its former role as a *polizey* and it became the central instance in modern society moderating relations between the principle of universal access<sup>4</sup> to and inclusion in the social realms of the economy, the law, education, health or politics and the empirical reality of social exclusion.

The effect was that national welfare states became the worldwide institutionalised form of organisation of the political system in world society and, with their emergence, they have evolved as international “thresholds of inequality” (Stichweh, 1998). This means that they have provided for the “internal loyalty” of their citizens by a welfare policy that promotes chances for inclusion based on external closure and exclusion. From the beginning, welfare provided by the nation-state had a territorial index. The provisions of welfare states were initially addressing only citizens, that is, those individuals that were accepted by the state as belonging to its own territory. Nation-building in Europe took place as a process by which a population was transformed into a unitary nation, a people (*Volk*) on a politically defined territory (Koselleck, 1992; Brubaker, 1992). The nation may have been defined in either ethno-cultural terms (such as Germany) or political terms (such as France), but in the historical context of competitive state-building processes in Europe, the common welfare of the people of the nation – as “the community of national citizens” – evolved as the general frame of reference for the state (Bommes, 1999). This involved the political claim for not only formal, but also substantial

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4. Universalism of inclusion in modern society means that nobody should be excluded from claiming economic, legal or educational provisions if he or she can fulfil the social preconditions for any of these claims (Luhmann, 1989). For example, one can participate in education if one is perceived as educable, one can participate in the economy if one finds access to monetary means and one can participate in law if one knows how to act on behalf of one’s rights. At the same time, none of these necessarily imply that inclusion always empirically succeeds – on the contrary it rather often fails. But the valid institutionalisation of social expectations like the universalism of inclusion provides the basis for the perception of this failure as a problem in need of remedy, e.g. by means of welfare policy.

equality for all members of the national community, a claim founded on the political form of membership, that is, of citizenship (Marshall, 1950).

In a most general sense we may say that national welfare states care for their citizens by trying:

- to open or alleviate access to the relevant social systems (the economy, law, education, family or health) and to reduce the risks of exclusion;
- to stabilise these systems and their capacities for inclusion (labour markets, families, education, health, etc.);
- to equip individuals to fulfil the conditions for social participation;
- to compensate for the social consequences of failing access.

In order to achieve these objectives, states basically rely on law as a means of assigning rights and duties, the political redistribution of money and the symbolic dimension of civic duties. The result of these efforts of states are their highly differentiated welfare infrastructures, involving social security systems dealing with the modern core risks of accident, disease, age and unemployment, social benefits for families, programmes to increase access to education, social benefit payments for the long-term excluded and poor and various public provisions of social services, etc.

National welfare states differ tremendously, especially in Europe, and it seems that this will remain true in the near future, even with the progression of globalisation and European integration and some, although limited, processes of model mixing and assimilation (Obinger et al., 2006). This difference is a result of the various histories of state-building by European nation-states, and their welfare structures are the outcome of the accumulated political decisions in a history of designing welfare in nationally specific ways. It is, however, possible to build groups of welfare states by categorising them as different types. According to Esping-Andersen (1990) we find three such types: the liberal, the conservative and the social democratic type of welfare state. Welfare states differ according to this model concerning:

- their extent of de-commodification, that is, the extent to which income and social security is made dependent on participation in the labour market;

- the role and amount of residual spending, that is, national assistance as a percentage of social spending;
- their redistributive aims and capacity;
- their corporatist structure, that is, the differentiation of social security systems according to different occupational and status groups;
- the amount of private spending for health and pension systems;
- their conceptual assumption about the main provider of welfare, that is, the market, the family or the state.

Along these lines, welfare states vary largely according to their guidance by different welfare orientations, which can be distinguished as individualistic versus corporatist versus universalist. Examples of the liberal individualistic type are the UK and the United States; the conservative-corporatist type, Germany, Austria, Italy and (less so) France; and of the social democratic-universalist type, the Scandinavian countries, especially Sweden and Denmark (Esping-Anderson, 1990; Schmid, 2002; Opielka, 2004).<sup>5</sup> During the last ten or fifteen years there have been extensive discussions about the adaptive capacity of these different types of welfare state to cope with new constellations as a consequence of the challenges of globalisation.<sup>6</sup>

## 2. Welfare cultures – the basis of cultural discrimination?

To what extent do different welfare state types also represent different welfare cultures? The answer to this question is evidently relevant for the guiding question of this chapter: whether or not welfare states tend to discriminate migrants or ethnic minorities, and if this is due to cultural

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5. This modelling has been criticised in many respects. Some argue that there is a fourth type in Europe the so-called Mediterranean type (Ferrera, 1998); some question the empirical applicability of the model (Albers, 2000). For a discussion see also Kaufmann (2004); we cannot, however, go into any detail here.

6. See Esping-Andersen (1996 and 2002); Ganßmann and Haas (1999); Goodin et al. (1999); Alber (2000); Fligstein (2000); Kaufmann (2003); Leibfried and Zürn (2005). On a most general level, the outcome of this discussion is that those welfare states that do best manage to combine access to labour and the provision of welfare instead of providing welfare as a substitute for labour – a problem mainly for the conservative-corporatist type of welfare states. The recent shift to so-called activating welfare policies in many countries is a reaction to these problems. The integration policies in many countries addressing migrants belong in this context.

models underlying their social policies and infrastructure of welfare provision. In this context, cultural discrimination would refer to social practices that use cultural (or ethnic) differences, implicitly or explicitly, as differentiating organising principles; these regulate the access to social rights and the provision of welfare linked with these rights in a way that systematically causes serious advantages for certain parts of the population and serious disadvantages for others, especially migrants or minorities, concerning their social welfare.

In order to answer this question, it is necessary to distinguish between discrimination that may affect ethnic minorities due to other reasons (we will return to this point below) and that due to cultural models inscribed in welfare state infrastructures themselves. This is relevant since welfare states in Europe are constitutionally-embedded states, and claim to follow the rules of equal treatment and non-discrimination for reasons of gender, descent, race, language, origin, beliefs, political or religious views, that is, of non-discrimination also for cultural reasons.

It is obvious that the bundles of organisations, regulations and institutions referred to as welfare states are deeply culturally impregnated. Conceptions of security and insecurity, assumptions about responsibilities for the provision of welfare, the limits of welfare and the extent of individual self-responsibility are contingent and not self-evident. There are always alternative ways and it is certainly – at least in principle – possible to organise welfare differently. This becomes evident from the comparison of different types of welfare states. Each of them is based on assumptions about what states should do and to what extent they should intervene, about the meaning and foundations of freedom, about the main institutions and foundations of society, etc. Different welfare states are therefore centred around those institutions in different ways:

- individual freedom in markets (liberty and private welfare, liberal individualistic welfare states);
- families/communities (reproduction of the communitarian foundations of society, conservative-corporatist welfare states);
- the state (social equality in labour market society, social democratic-universalist welfare states).

The outcome is fairly different welfare cultures in each of these states. But this insight does not get very far concerning the answer to the question if,

and to what extent, national welfare states also care in a non-discriminatory and more specific, culturally non-discriminatory manner for migrants or ethnic minorities.

Different welfare models are certainly contested but this does not immediately imply discrimination of minorities for several reasons: in democratic states, those models are principally the outcome of democratic decision-making processes and embedded in universalistic liberal constitutions that strongly restrict any option of open discrimination. Many welfare programmes include all individuals in the same way and modes of privileging or de-privileging are usually legitimised by the effort to compensate for structural or historical disadvantages, that is, positive or negative discrimination guided by universal criteria. In other words, even restrictive welfare models like liberal welfare states may be criticised for their limited effort to protect the poor – but this affects all individuals living in these countries in the same way if they experience poverty. And if welfare programmes and organisational practices contradict the rules of equal treatment, there is a good chance of de-legitimising these models.<sup>7</sup> A first conclusion may therefore be that there are good reasons to assume that modern welfare states embedded in universalistic liberal constitutions are built in such a way that provides some strong barriers against discrimination of any kind. But this seems to be too easy an answer in the light of complaints of many minorities, who experience not only general, but particularly cultural discrimination.

### **3. Is cultural discrimination inscribed in the structural relation between migrants and European welfare states?**

In order to approach the question of potential discrimination of migrants or minorities on cultural grounds, a distinction needs to be made between allochthonic and autochthonic minorities, that is, minorities resulting from processes of migration on the one hand, and minorities who are constituted historically in the process of nation-state building on the other. The following text concentrates on migrant minorities.

Migrants in Europe after the Second World War differ from autochthonic minorities since they entered complete nation-states with already existing

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7. Feminism and the institutionalisation of gender mainstreaming are striking examples.

institutions.<sup>8</sup> International migration means geographical mobility in search of chances for social inclusion (Bommes, 1999). It implies the readiness to adapt to the social conditions existing in the destination countries, especially as regards markets, legal and political systems, education, health, mass media, the public and religion.<sup>9</sup> Autochthonic minorities are the result of historical state-building processes. Their political and cultural rights are the outcome of political struggles concerning the extent of autonomy of those minorities (Therborn, 1995).

In order to understand the position of migrants in welfare states and to tackle the question of potential cultural discrimination, we need to clarify some of the structural specificities of the relation between international migrants and national welfare states. It will be demonstrated (see points A to G below) that, in a peculiar way, European national welfare states prove to be inclusive and non-discriminatory for long-term resident migrants precisely because of their legal embeddedness, even if they have emerged as institutions of closure and thresholds of inequality for outsiders:

A. The provisions of welfare states initially only addressed citizens, that is, those individuals that were accepted by the state as belonging to its own territory. The implication of this was and is, “the institutionalisation of a threshold of inequality” aiming to give privileges to existing citizens and to exclude outsiders from these privileges (see above). Part of the institutionalisation and establishment of national welfare states since the late 19th century, was a “history of closure” – this has not been the case

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8. This argument certainly needs more explanation. It is useful, however, in order to note the main difference between migration in Europe and migration in classical immigration countries. These countries, such as Canada, the USA, Australia or New Zealand, have used immigration as a mechanism for state-building, i.e. creating their state populations by means of immigration. This is still present in many of their current ways of dealing with immigration, which still differ to a large extent from European migration policies. On the other hand, post-colonialism has been a defining frame for the handling of migration in countries like the Netherlands, the UK or France. And in Germany, the immigration of ethnic Germans, one major immigration strand accompanying most of its post-war history (Bade and Oltmer, 2003), was, until 1989, due to a turbulent and unfinished state-building process.

9. A clarification in order to avoid any misunderstanding: they do not have to adapt to any of the dominant or minority religions but to the institutionalised state of societal differentiation, i.e. the differentiation between religion and the other societal realms, especially politics, law, education, health, the mass media and the economy.

since the middle of the 1970s and has been increasingly challenged by various globalisation processes.

B. Generally speaking, international migration is an outcome of the expectation of the institutionalised form of mobility in “modern world society”, that is, to move where relevant social resources for an autonomous life are accessible. International migration means precisely the effort of realising the chance of a better life by means of geographical mobility. This implies no structural problem per se for those social systems primarily affected, such as labour markets, education systems or families.<sup>10</sup> Nevertheless, most international migration is confronted with all kinds of legal and political intervention.

C. The structural basis for such intervention is the organisational form of politics in modern society – the nation-state. Political and legal intervention in international migration happens regularly and not just by historical chance. The intervention articulates an “internal structural contradiction” of world society: the permanent production of motives for international migration – due mainly to the demand of labour markets and the options of education systems, the institutionalisation of the nuclear family, the worldwide communication of options by the mass media and the accessibility of transport (just to name the most important factors) – and the constant political effort to restrict these migrations<sup>11</sup> and to reduce motives for migration due to the specific structure of the political system, that is, its internal segmentary differentiation into nation-states (Stichweh, 1998).

D. One strong implication of the worldwide institutionalisation of national welfare states has been the partition of the world population into “state populations” (Halfmann, 2005). International migrations have always questioned this division by crossing borders in search of chances of social participation. The reactions of nation-states to these migrations are mediated by the two constitutive dimensions defining the relation between states and their populations. These are: (a) the dimension of loyalty, referring

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10. Geographical mobility inside of nation-states for reasons of employment, family reunion or education is not counted as migration and those involved are normally not treated as migrants.

11. See Castles and Miller (2003). The *Global Commission Report* can be read as an effort to overcome this basic contradiction in the time dimension, arguing that international migration will be to the benefit of all “in the long run” – although it is faced, at present, with all kinds of “short-term” barriers.

to the requirement of obedience to the political decisions of states by citizens and all other people residing on the territory, as a fundamental condition for the reproduction of state sovereignty; and (b) the dimension of “provision”, which refers to the obligation of the state to provide legal, political and social security in exchange for loyalty, summarised in the concept of the welfare state (Marshall, 1950). Nearly all political modes of regulating international migration are guided by aspects concerning one or both of these aspects of loyalty and provision (Bommes, 1999). Current examples are, on the one hand, the public linkages between migration and terrorism in recent years, thereby questioning the loyalty of migrants and, on the other, the frequent debates in nearly all European welfare states concerning the effects of international migration on the capacity of welfare state provision (Bade and Bommes, 2004).

E. International migrations have therefore never been just the unwanted outcome of societal mobility structures, but have rather, to a large extent, been induced by nation-states themselves (Bade, 2003). States allow for international migration depending on their expectation that it will contribute to economic growth, the reduction of structural supply deficiencies in labour markets, the compensation of demographic problems, etc. Europe is a case in point, where most of the northern and western states have “actively attracted” migrants from the 1950s until the middle of the 1970s.<sup>12</sup> This has been the take-off point for the emergence of Europe as one of the main regions of immigration in the world, and many of the current immigration flows in Europe are still, to a large extent, structurally based on these early immigrations (Bade, 2003; Castles and Miller, 2003).

F. The emergence of Europe as one of the main regions of immigration in the world was an unintended political outcome of the policies of different national welfare states in Europe. But these states, coming from different starting points and building Europe from the 1950s on, have gone through an (uneven) process of mutual adaptation linked with a successive “normalisation” of immigration and settlement processes. They had to realise that most of the immigrants of the 1950s, 1960s and 1970s had gained access to civil and social rights, which had formerly been seen

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12. The most recent southern immigration countries (Italy, Spain, Portugal and Greece) seem to be attracting migrants in a rather clandestine manner, on the one hand, formally adapting their migration regimes to the existing EU framework and allowing, on the other hand, constant flows of irregular migrants by means of recurrent legalisation programmes (for Italy, see Finotelli, 2006).

as privileges reserved for citizens (Brubaker, 1989; Hollifield, 1992; Soysal, 1994), and in this way had become “denizens” (Hammar, 1989). The irreversibility of this constellation had become clear by 1989, at the latest. During the 1990s, most European states normalised their “denizens” by offering easier legal access to naturalisation and citizenship (Weinbach, 2005). In parallel with this, they harmonised and tightened their different migration regimes concerning selection and control of access to the European territory. It needs to be noted, however, that until the 1990s, European national welfare states were rather inclusive, even if unintentionally so, and the surprising result was that the architecture of constitutionally-embedded welfare states provided access to social rights even for non-citizens. The longer migrants resided in the country of destination, the more rights they were able to accumulate (Bommes, 1997; Joppke, 1998) and in this way, it was the architecture of European welfare states that proved to be non-discriminatory, even if this was not always appreciated politically.

G. The reverse of welfare inclusion and the alleviation of legal naturalisation opportunities has been both the increase of migration control and the closure of Europe on the one hand and, seemingly paradoxically, the introduction of regular integration programmes for migrants on the other. These integration programmes<sup>13</sup> are part of the reorganisation of migration and integration policies relating to recent reforms of welfare states in Europe that fall under the heading of the “activating welfare state” (Esping-Andersen, 2002). “Social integration” refers to a mode of addressing migrants who are residing legally in a country, that puts them in a similar relationship to the welfare state as all other clients. “Activation” means a reorganisation of the relation between the welfare state and welfare receivers, in a way that welfare rights are made more and more dependent on duties and on means testing.

All receivers of welfare are confronted with the expectation that they must adjust their way of life to self-responsibility and employment, in order to become independent of welfare support as far as possible. This adjustment particularly affects the less competitive sections of the population, independent of their nationality. Therefore, the difference between citizens and foreigners loses even more of its former relevance. From the perspective of welfare states who have, since the 1990s, reorganised

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13. The integration programmes referred to can be found in many countries since the late 1990s, among others the Netherlands, Sweden, France and Germany. See Michailowski (2006), Schönwälder, Söhn and Michailowski (2005).

their welfare programmes by reducing the capacity for provision, national citizenship loses much of its capacity to preserve social privileges, since all clients are treated equally, and treated only as being potentially competitive or non-competitive (Bommes, 2003). All individuals are expected to strive for competitiveness and, from this perspective, options of migration and naturalisation are made dependent on the effort of “social integration”, which should be achieved by migrants themselves. The report of the former Independent Commission for Migration in Germany, headed by Rita Süßmuth, stated: “Integration is a social process that involves everyone in any society. Willingness to integrate is indispensable: it manifests itself if each individual takes the initiative to make an effort towards social integration. This applies to the domestic population and to immigrants alike” (Süßmuth Commission, 2001: 196). There remains, however, a decisive difference between citizens and foreign migrants: the latter are judged by their potential risk of “integration failure”, and on this basis they may either be denied access to the territory at all<sup>14</sup> or their residence status may be restricted.<sup>15</sup> In other words, the acquirement of citizenship, as a full political inclusion, is made conditional upon the ability and willingness to integrate socially, that is, to have access to the economic, cultural and social competencies and resources necessary for the autonomous participation in the central realms of society, especially the labour market and education. Seen from the perspective of activating welfare states, the ability to integrate needs to be created and enforced among those migrants already residing legally on the territory and among those constantly (and unavoidably) arriving, based on the principle of “rights and duties”, that is, offering support and demanding the active effort of social integration.

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14. It seems that control of migration and social integration are the two key elements of current migration and integration policies in Europe, i.e. the effort to define and to enforce the difference between the wanted and the unwanted migrants. This implies access to opportunities for those migrants seen as potentially competitive (e.g. highly qualified migrants, entrepreneurs and students) and restrictions as far as possible for unavoidable migration based on family reunification and humanitarian reasons. In this same context, the controlling capacities of single states and the EU are constantly increased.
  15. Countries like France, the Netherlands and Germany link non-participation of migrants in obligatory “integration courses” with sanctions concerning their status of residence (Michailowski, 2006). It is obvious that states cannot threaten their citizens in the same way, which demonstrates that citizenship, once acquired, remains an undeniable social status protecting against deportation.

One surprising result of the migration policies of “activating welfare states” in Europe, that is, the combination of increasing external control with internal social integration policies, is the continuously diminishing relevance of the difference in social rights between citizens and legally resident foreign migrants. The outcome of the recent reforms of welfare states trying to cope with their reduced capacity of provision in the context of globalisation since the 1990s, has not been an increasing exclusion of migrants, but rather a further levelling of the difference between foreign migrants and citizens, the former, generally speaking, on a lower level of welfare provision.

H. However, one may be tempted to suspect that there is an element of cultural discrimination implied in this policy, since the stress on “social integration” seems to imply the “return of assimilation” (Brubaker, 2001) – an enforced cultural assimilation policy. But this return would be misread if it were understood as the re-invention of former assimilation policies, which had been characteristic during the period of nation-state building in Europe up to the middle of the 20th century (Therborn, 1995). The focus of social integration policies is the active mobilisation of individuals in order to orient them to the conditions of inclusion, primarily into labour markets and education. This does not imply assimilation in terms of cultural homogenisation. Obligatory language courses and citizenship classes, the core elements of many integration programmes, do not question cultural and linguistic pluralisation,<sup>16</sup> even if they are not based on multiculturalist policies aiming to support ethnic minorities and their cultures.<sup>17</sup> The obligation to learn the language is based on the expectation that successful inclusion in education and labour markets will require some knowledge of the local language of intercourse. It is not based on any “thick notion” of language interpreted as the foundation of the

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16. “Public integration panics” as were observed after the murder of van Gogh in the Netherlands, the riots in France and the dispute on the Mohammed caricatures, seemed to indicate some effort to return to more substantial assimilationist and identity policies. In the end, it turns out that liberal states cannot easily suspend cultural and linguistic pluralisation, since it proves to be impossible to identify and agree on guiding values and norms beyond the basic principles of freedom and equality which allow for what is seen as problematic and in need of restrictions, i.e. cultural and linguistic pluralisation.

17. It seems that multiculturalist policies conceptualising ethnic minorities collectively as the main addressees of integration and welfare policies have been a late outcome of the prosperous welfare states of the 1960s and 1970s; for the Netherlands, see Entzinger (1998).

national community (Maas, 2007). Instead, activating welfare states seem rather to be “deregulating” cultural orientations and identities, corresponding to the general tendency to replace the classical promise of the national welfare state, as described by T.H. Marshall – to offer each citizen full membership in the national community<sup>18</sup> – by the reduced promise of resources for basic needs. Competitiveness in terms of education and labour market success provides the basis for legitimate claims on the income and supportive politics of the state, whereas the reference to citizenship and national belonging provides less and less legitimacy for such claims (Bommers, 2003); in other words, the semantics of national solidarity has lost much of its meaning.

To sum up: the analysis of the structural relation between national welfare states and international migrants and the review of the position of migrants in European welfare states leads to the following conclusions:

A. National welfare states create international “thresholds of inequality” through which they aim to privilege their citizens in comparison to foreigners/migrants. This is one foundation for the insistence of states to maintain control over access to their territory.<sup>19</sup> The current regimes of European welfare states are even trying to increase this control over access in relation to all categories of unwanted migrants.<sup>20</sup>

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18. See Marshall (1950). A classical text on the sociology of the welfare state, it described the institutionalisation of national citizenship in 1949 as the historical emergence of civil, political and social rights. Empirically, Marshall referred to the development in Britain, and interpreted the welfare obligations of the state as the successive, evolutionary realisation of the structural implications of modern national citizenship. “Citizenship”, for him, meant the institutionalisation legitimisation of the expectation that it is the duty of the modern state to secure social inclusion of all citizens as full members of society and the national community. Clearly, his starting assumption was that the nation-state will be able to control enough resources in order to enforce this “ideal citizenship”.

19. One of the means to maintain control on migrants is the introduction of time-limited access to the territory and labour market based on models of seasonal and contract labour. These types of migrants are more or less effectively excluded from national welfare schemes, and the accumulation of irreversible social rights is linked to a process of stabilisation of their residential status. There is a current debate among EU governments as to whether models of so-called circular migration would allow the advantages of illegal migration to be made use of by avoiding its unwanted effects.

20. There can be no detailed discussion here concerning the potential success of these efforts in the light of illegal migration, increasing globalisation, etc.

B. These same welfare states have turned out to be rather inclusive in relation to their major migrant categories since the Second World War. This inclusiveness was not the original intention, but was a structural outcome of the way welfare functions in constitutionally-embedded liberal states. The “thresholds of inequality” cannot be kept up internally on the basis of the difference between citizens and foreigners.

C. The effect of welfare state reforms under the heading of activation since the 1990s, as a consequence of their reduced capacity of welfare provision, has been a further levelling of the status of citizens and migrants with legal residence status, as clients of the welfare state. The main criterion for the position of individuals in welfare states is competitiveness, and national belonging is losing relevance.

#### **4. Structural reasons for disadvantages of migrants in welfare states**

In order to answer the question posed in this chapter, whether welfare states tend to discriminate against minorities in cultural terms, two tasks remain to be solved: firstly, it needs to be clarified whether there are structural and not only cultural reasons why migrants are faced with higher risks of inequality in terms of welfare provision due to the very fact of migration itself, which may place them in a weaker position than that of (lifelong) citizens. It will be argued that this is due to the fact that the relation between welfare states and their citizens is conceptualised as a lifelong relationship. The risk of failing to be included in modern society is addressed by welfare programmes, which accompany individuals from early childhood onwards, through to pension age and death – with some effects on the position of migrants in welfare states. Secondly, it may be suspected that structurally-based cultural discrimination can be found in welfare states, less because of their specific cultural models of welfare (see paragraph B above), but rather that discrimination for cultural reasons may be found in welfare states which use particularity and cultural differences as an internal principle for the organisation and provision of welfare.

##### *a. Welfare, life course regimes and the position of migrants*

Welfare states organise their welfare programmes around the “biography” and career of individuals from their birth and early childhood

onwards until their death.<sup>21</sup> The institutionalisation of the modern “life course regime” has been the result of the emergence of welfare states. The life course can be understood as complex social rules that order the time dimension of an individual life, viewed as a sequential programme (Kohli, 1986). “Biography” and “career”, both of which are central elements of the social concept of a life course, are historically formed by the interplay of the modern labour market recruiting individuals and the welfare state establishing social preconditions for the possibility to find and recruit individuals with an expectable life course. The introduction of social insurance schemes had the effect of organising the temporal accumulation of social entitlements around the employment of individuals in organisations. This accumulation therefore depends, to a large extent, on the duration of employment, changes in the conditions of employment and dismissal, the institutionalisation of public education and the provision of family and education allowances.

The implementation of welfare-state measures can be understood as the successive introduction of the structural elements which make up the institutionalisation of the life course. Life becomes socially conceptualised as a sequential programme, partitioned into three general stages: childhood/education, foundation of family and working life, and retirement. Welfare state measures orient individuals towards the structure of a life cycle and the expectation of a career.<sup>22</sup> The core institutions of the welfare state – the family, education, unemployment, illness, accidents, retirement – are structured in a way that implies the expectation that individuals are equipped and willing to prepare themselves for a biographically-ordered sequence of inclusions in different social realms and organisations, especially the education system and labour market. The institutionalisation of the life course and its variations in different welfare states can be taken to be the result of the specific historical formation of the relation between each state and its citizens. It is obvious, however,

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21. A more detailed analysis is elaborated in Bommers (2000). It may be stressed, however, that the importance of biography or life course is based on the structural conditions of modern society and its mode of inclusion and exclusion, even if the institutional designs of biographies differ to a certain extent from country to country within Europe.
  22. Achievement of a continuous employment career is difficult for quite a number of individuals, thereby weakening their welfare position. Nevertheless, or perhaps even because of this, competition between individuals in labour markets takes the form of diversified careers, i.e. the collection of more and more experience in shorter time periods and in increasingly varied locations.

that the relation between the state and its citizens is conceptualised in this way as a lifelong relationship.

The constitution of biographies and their regulation by the welfare state makes it very likely that the biographies of migrants will deviate from the standard pattern. Deviation means that their life courses and biographies do not fulfil the institutionalised expectations of normality valid in each welfare state. Biographies and related careers refer to the accumulation of chances for structural participation. International migrants are presumed to be poor or deprived, since it cannot be assumed that they have built their careers with the required elements. Consequently, those things that under "normal conditions" are treated as given can no longer be presupposed. This becomes obvious if one looks at certain common deviations of migrants in three biographically important areas: education, labour and participation in pension schemes.

### *Education*

Migrant children have access to schools in many countries even when they do not have a residence permit. The normal expectations of education systems rely on the assumption that families of children are settled. But migrant children (with or without legal status) may not speak the official language and, in this way, question institutionalised assumptions about normal socialisation processes, as well as linguistic and cultural competencies, as central preconditions for the ability to learn something. Moreover, careers of migrant children that were built at school in their countries of origin may not be accepted by the education system in the destination country. This may block important paths of educational success and increase the likelihood of failure. This does not immediately justify easy assumptions about cultural discrimination, since immigrant children certainly need to learn the language of the destination country<sup>23</sup> and have to face the challenge of second language acquisition. It refers, however, to two serious problems: *a.* their potential comparative disadvantage of competition in relation to indigenous pupils; and *b.* that schools use cultural and linguistic backgrounds as a means of discrimination because this allows them to solve everyday problems of organising education,

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23. This is not only the implication of their parents' migration decision but also a precondition for their access to education and the labour market.

to avoid adequate adaptation to the challenges of education linked with ongoing immigration and to take educational decisions (Gomolla and Radtke, 2004).

Of course, this type of potential cultural discrimination has no structural foundation in the principles of modern education systems of welfare states, since they are based on universalism, that is, the right to education for every child; but rather – and in practical and empirical terms this may be highly relevant<sup>24</sup> – in the capability of the education system's everyday routines to handle the challenges of migration, and its institutional barriers to carrying out the necessary adaptations to the conditions of immigration. It becomes, however, a case of structurally-based cultural discrimination if education systems fail to adapt to immigration, which involves the task of educating bilingual or even multilingual children, socialised in families that use a language other than the language of the destination country on a daily basis. In other words, if the institutionalised assumptions about normal socialisation processes, including linguistic and cultural competencies, as central preconditions for the ability to learn something are not revised with respect to immigrants, even second- or third-generation children will remain affected, in a culturally discriminatory manner, by institutionalised expectations concerning the normality or deviation of individual biographies.

### *Employment*

Migrants are less likely to be able to offer socially established biographies and careers of education and work. This excludes them from competing in large segments of the labour market.<sup>25</sup> It should be noted, however, that the absence of careers and related social claims was, in many respects, the precondition for the immigration of labour to western European countries during the post-war period and this is still the case today. For many migrants, it is paradoxically the absence of a career at the start that

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24. As various comparative studies of the OECD, known under the names of PISA and IGLU, have demonstrated.

25. To the extent that social networks play an important role for the mediation of access to employment, this has serious effects on the labour market chances of the second and third generations, since their parents often cannot act as "gatekeepers", who mediate in obtaining better paid jobs for their children; see Bommers and Tacke (2006).

provides chances for social inclusion in those labour market segments in need of unqualified workers. The same holds true for much illegal immigration and explains its ongoing dynamics (Bommes, 2006).

### *Retirement*

Migrants can usually obtain welfare entitlements even if they are not citizens. Older migrants, however, are likely to have low pension incomes since many have not been included in pension insurance funds long enough to accumulate adequate entitlements.<sup>26</sup> For this reason, it is likely that many may have to rely on public assistance.

These three brief examples show the ways in which migrant biographies may deviate from the expectations guaranteed by welfare states. The social consequences of this cannot be extrapolated theoretically. Deviation and its consequences depend upon the various kinds of expectations of normality supported by different types of welfare state. Moreover, immigration takes different forms in different countries and migrants have varying legal and welfare entitlements linked to their immigration path. In the context of this chapter, they serve to demonstrate that migrants are usually faced with a higher risk of exclusion and reduced access to welfare provision, due to their varying life course regimes, which deviate from that institutionalised in welfare states. If we assume that, for demographic and other reasons, immigration will be an enduring phenomenon in Europe, it is worth stressing that it may be the time dimension, less than the cultural dimension, which proves to be relevant for the discriminatory effects of welfare states; at least if it cannot be presupposed that a relevant and potentially increasing section of the population in Europe – migrants – has a lifelong relationship with the welfare state, an implicit assumption built into their organisational structure.

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26. Most pension insurance funds in European welfare states make entitlements dependent on the length of time spent on state territory and/or the length of time of employment and contribution (Dörr and Faist, 1997). Because of the difference between pension schemes, this is usually not compensated by the mechanisms of co-ordination and harmonisation established in international social law (Eichenhofe, 1994). This underpins the importance of the life-course-oriented relationship between a welfare state and its citizens.

*b. Cultural discrimination as a potential effect of corporatist welfare*

Does this allow the conclusion that cultural discrimination of migrants, which may be found in school systems, employment<sup>27</sup> or housing markets, among others, has no structural foundation in the design of modern welfare states themselves and that on the whole, cultural discrimination proves to be irrelevant in welfare states? It seems that structurally-based cultural discrimination can be found in welfare states less because of their general cultural models of welfare (see paragraph 2 above), but because some welfare states use particularity and cultural differences as internal principles for the organisation and provision of welfare. This has some surprising effects, depending on the way in which these differences are made relevant. Two complementary examples, which demonstrate this point, are the Netherlands and Germany.

The Netherlands has been famous for a multicultural policy based on the early recognition of ethnic minorities, which was seen as the outcome of post-colonial and labour migration in the 1960s and 1970s. The political aim of this policy has been to provide social inclusion and equality for migrants by means of a policy that addressed ethnic communities, while assuming that social inclusion and equality are the effective and efficient mediators of social opportunities for migrants. The model for this approach was “pillarisation”, that is, the building of state and society on top of the relevant societal pillars (Catholic, Protestant, liberal) allowing each of them to create their own institutions. Ethnic minority policy was conceptualised in this tradition, allowing immigrants to develop their own institutions (Entzinger, 1998). Pillarisation had, however, already lost much of its relevance for the indigenous population due to the expansion and modernisation of the Dutch welfare state during the 1960s and 1970s. The ironic effect of this welfare policy for migrants based on the cultural recognition of minorities, was that it effectively excluded large parts of the immigrant population from the labour market, at the precise

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27. Cultural discrimination of migrants in the labour market and in employment has attracted much attention. The basis for this, however, is the structural insecurity problem linked with the recruitment decision, i.e. the decision to select the right individual for employment. This opens up a number of opportunities for discrimination against outsiders applying for jobs and has been the focus of the struggle for gender equality. The structural foundation of this type of discrimination is the mode of operation of organisations based on decision making (Luhmann, 2000; Bommers and Tacke, 2006) and not the organisational principles of welfare states.

moment when the Dutch “employment miracle” of the 1990s attracted much attention in a Europe struggling with high unemployment rates. This caused a policy shift away from the ethnic minority approach to a policy of social integration addressing individual migrants and aiming to improve their labour market performance. It turned out that the very European country that had long been referred to as having a model example of a successful multicultural policy based on its acceptance of the outcomes of immigration (the emergence of ethnic minorities) not only did much worse in terms of labour market inclusion of their immigrants; it also allowed for the far-reaching cultural isolation of some sections of immigrants, due to the reliance on the pillarisation model. The unintended outcome of “positive cultural and ethnic discrimination” has been structural discrimination, that is, that large parts of the immigrant population, especially those of Moroccan and Turkish origin, found only restricted access to the labour market and failed in educational terms (Koopmans, 2003; Böcker and Thränhardt, 2003).

The surprising result of recent comparisons between the Netherlands and Germany has been that immigrants in Germany, a country long reluctant to accept the fact of immigration, have done much better in terms of employment and social security. Seen in this way, the organisational model of the German welfare state proved to be much more inclusive than the Dutch model (Böcker and Thränhardt, 2003). Nevertheless, even after the reform of the naturalisation law in 2000 and the recent implementation of an immigration law in 2005, signifying political acceptance of being a factual immigration country, Germany turns out to be an interesting case of a welfare state with some potential for “cultural discrimination”. This is not due to any “minority policy” but to the organisational structure of the welfare state itself. Germany has been described as a conservative-corporatist welfare state. An important element of this model is the so-called “principle of subsidiarity”, that is, the secondary liability of the state, which takes over responsibility only in cases where welfare cannot be provided by the relevant responsible groups and institutions (such as the family and religious or non-religious communities). The effect of this has been that large parts of the German welfare system are organised by Protestant and Catholic churches and religious and secular charities, which are subsidised by the state.<sup>28</sup> Kindergartens, schools, hospitals and old people’s homes are run, to a large extent, by the Christian churches

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28. The German Catholic charity “Caritas” is one of the major employers in Germany.

or religious charities. This has discriminatory effects in cultural terms in two directions.

Firstly, non-Christian and especially Muslim migrants often see themselves confronted with welfare infrastructures deeply impregnated by Christian traditions, due to the strong position of the Christian churches in the German state (Fetzer and Soper, 2005). This does not mean that Christian churches or charities and the organisations run by them exclude migrants or explicitly discriminate against migrants. On the contrary, historically, the churches have been at the forefront in defending migrants against discrimination and arguing for the expansion of their civil, political and social rights. Muslim migrants in particular, however, struggle to have the same rights as other religious communities – with some success. A current example is the serious effort to institutionalise regular religious education of Muslim children in schools, by teachers trained in German universities, supervised jointly by officially recognised Muslim communities and the German authorities.<sup>29</sup> It will certainly be one of the major future topics, not only in Germany, to what extent Muslims should have the same rights as other religious communities. One implication of this is that, in the light of the arrival of Islam in Europe, many European states will need to readjust their historical compromises concerning the differentiation between politics, law and religion (Fetzer and Soper, 2005; Klausen, 2005; Sövik, 2006).

Secondly, there is a tendency of parents of non-immigrant children to send their children to Christian schools in order to avoid schools with high numbers of immigrant children, especially those of Turkish origin. This “white flight” is, to a certain extent, based on the limited secularisation of the education system. This type of educational segregation, which is an effect of the behaviour of the educated middle classes, may well be understood as cultural discrimination, due to the specific structural design of the German welfare state and the role of religion.<sup>30</sup> To sum up: cultural discrimination seems to become relevant, not because of any open or hidden discrimination directly affecting migrants, but because of the privileged position of religious communities, due to their historical role in the state-building process and the emergence of the welfare state.

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29. On the history of the struggles over Islamic education in German schools, see Sövik (2006).

30. Similar arguments for other European countries can be found in Klausen (2005).

## Conclusion

This chapter has discussed the question whether the cultural models of welfare inscribed in welfare states have a discriminatory effect on ethnic minorities with respect to their access to welfare provision and social security. Based on the fact that migrant minorities in many European countries experience disadvantages and have fewer social security provisions than the indigenous population, it is often assumed that this is due to cultural discrimination. The argument here is developed in three steps and tests the assumption of cultural discrimination by looking at the cultural models of welfare inscribed in European welfare states and by analysing the relation between national welfare states and migrants. After clarifying some structural and functional specificities of modern welfare states, it is argued that the fact that European welfare states are based on different cultural models of welfare does not prove systematic cultural discrimination. The latter includes social practices that use cultural (or ethnic) differences, implicitly or explicitly, as differentiating organising principles, which regulate access to social rights and the provision of welfare linked with these rights in a way that brings advantages for certain parts of the population and causes serious disadvantages for others, such as migrants, with regard to their social welfare. As long as the different cultural models of welfare established in European welfare states are applied equally to the long-term resident population of a state, this provides no basis for the assumption that migrant minorities are culturally discriminated against, especially since constitutionally-embedded European welfare states operate based on universalistic rules.

The structural reason for the weaker position of migrants in welfare states is instead to be found in the way welfare operates, that is, centred around the biography of individuals via the institutionalisation of life course regimes. Since the provision of welfare is based on the assumption of a lifelong relationship between the state and welfare receivers, migrants tend to be disadvantaged because of their deviating life courses and time-limited relationship with the country of destination. There is, however, cultural discrimination to be found in those welfare states that use particularity and cultural differences in a corporatist manner as internal principles for the organisation and provision of welfare, be it via welfare policies aiming to support ethnic minorities, or welfare policies based on the “principle of subsidiarity”.

What conclusions can be drawn from this analysis? Migrants in Europe experience, to a large extent, social disadvantages and restricted access

to the important spheres of life such as the labour market, education, health or housing. Events like riots in France and Britain, the murder of van Gogh in the Netherlands, the involvement of young immigrants in terrorism in Britain, Germany or Spain, or less dramatically, the increase of social segregation in many countries, all indicate that increasing social inequalities and resulting social stratification are linked with severe consequences, which are debated all over Europe under the headings of failing social integration and endangered social cohesion. It seems, however, that the social processes underlying these unintended outcomes are, to a large extent, not well understood, if they are ascribed to processes of cultural discrimination embedded in the structures of European welfare states. This result of the analysis may be a relief in normative terms – however, it leaves us with the unresolved constitutive puzzle of modern society – its reflexive concern with problems of inequality and social inclusion precisely resulting from its structural potential to produce and to allow for enormous differences, inequalities and exclusions.

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## II. “Cultural otherness” or the ethnicisation of poverty? Some considerations on how post-communist welfare reforms affect Hungary’s Roma minority

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### 1. Varying contexts of “cultural otherness”: the case of Roma in Hungary

In the context of this volume dealing with the multifaceted implications of international migration, it might seem odd to bring up the drastic social exclusion of Roma people amid the ethnic/cultural (re)interpretation of poverty in the process of post-communist transformation in Hungary. After all, how does the case of Hungary’s autochthonous Roma citizenry relate to the new challenges that the inflow of large numbers of people from distinctively other than traditionally understood European cultures<sup>1</sup> has created in the past decades for the established welfare states of the continent?

True, if migration is taken in the strict demographic sense of the term – meaning people and their immediate descendants who have left behind their countries of origin and have made attempts to build up lives elsewhere – then Hungarian Roma do not fall into this category. For the past several hundred years, they have lived on Hungarian soil; moreover, neither inward, nor outward migration has significantly affected their socio-

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1. In recent years, attempts at clearly defining the concept of “European culture” have come to the forefront of academic and political debates. There is a rather broad consensus around binding the concept to the Jewish-Christian traditions as the ultimate foundation of widely-shared values, behavioural patterns and social relations of the otherwise varied historical paths and cultures of European populations. However, the lasting process of migration, the increasing ratio of European citizens other than a Jewish-Christian background, and, above all, the current strong attempts at extending the borders of the European Union toward the Islamic world (i.e. the ongoing negotiations about Turkey’s membership) have raised profound challenges toward this traditional understanding. Although a new accord still seems rather far off, one clearly witnesses strong and widespread undertakings to establish a new understanding of “Europeanism”, as the signifier of various attempts at modernisation in the broadest socio-political sense of the term.

demographic characteristics over the past fifty to seventy years. However, if taken from the comprising metaphor for “otherness” – which is perceived by the ruling majority as diversion from the normative cultural and behavioural patterns of the given society – then the case of Roma in Hungary significantly resembles the socio-cultural and political position of recently arrived and loosely integrated (sometimes even harshly segregated) groups of migrants in the West.

As I will attempt to show, the striking similarities are the result of rather recent developments that have arisen amid Hungary’s strong attempts at radically decomposing the heritages of communist state-socialism and systematically converting its economic, political, institutional, and social order according to the rules of the market and western-type political democracy, respectively. As I will argue, the processes of post-communist transformation have squeezed the majority of Roma into seriously deprived positions that are largely defined and administered by the non-Roma majority in cultural terms and that invoke ethnicised policies of welfare ultimately resulting in strong social exclusion. It is not an exaggeration to state that, given the rather homogeneous national/ethnic composition of its dominant population,<sup>2</sup> and also the traditionally low rates of inward migration,<sup>3</sup> it is Hungary’s only domestic ethnic/racial minority – its Roma citizenry – that embodies otherness and that takes up the position of deprived and marginalised groupings labelled as “culturally alien” migrants in most other European societies.<sup>4</sup>

To make the functional logic of such a strange mechanism clear, one has to mention the specificities of migration in Hungary. With slowly decreasing rates, the balance of inward and outward movement has been negative in Hungary over the past two decades. In addition, the great majority of migrants see Hungary as a temporary stop on their move from the East to the West, and remain in the country for only a few weeks or months. Moreover, some 70% of them are Hungarian nationals from the neighbouring countries who speak the language fluently, have an informal

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2. Responding to the questionnaire of the last Census of 2001, 94% of the population indicated exclusive “Hungarian” nationality.
  3. The yearly rate of inward migration has remained between 0.5-0.7% during the past 15 years (Rédei, 2005).
  4. Although the topic cannot be explored in the framework of the current paper, I would like to mention that deprived Roma communities play a similar role in some other countries of the post-communist region that experience rather low rates of inward migration (e.g. Romania, Slovakia, Croatia and, to a certain extent, Bulgaria).

network of supporters, and can easily arrange the necessary administrative documents and permits that open their way to Austria, Germany, or Italy. Statistics clearly show the nature of the process: taking the fifteen year period between 1988 and 2003, the overall number of those applying for permanent residence (and/or citizenship) remained below 1% of the population; moreover, some 90% of the applicants were Hungarian nationals from Romania, Slovakia, and the former Yugoslavia. (Hablicsek and Tóth, 2000; Gödri and Tóth, 2004; Rédei, 2005).

Against this background, it has to be underlined that, instead of generating tensions of “cultural otherness”, migration is understood by contemporary Hungarian society in terms of spontaneous reunification of a nation hit by “unjust” peace-treaties after the two World Wars.<sup>5</sup> No wonder that such a historical-cultural restitution works toward social integration. As recent surveys demonstrate, migrants (that is, inward-moving Hungarian nationals) experience lower rates of unemployment than the respective socio-demographic groups of innate Hungarians; they are actively supported by the local community to find proper housing and schooling; most of them experience clear upward occupational mobility in comparison to their status back home, etc. (Hablicsek and Tóth, 2000; Gödri and Tóth, 2004). Since the majority are single males at their most productive stage of life, between 30 and 49 years of age, because they come from the most mobile, relatively well-educated and highly-qualified social strata of the neighbouring societies and, further, because they usually rely on kin and widespread social relations in both countries, it is therefore easy to welcome them in their new setting. In turn, the quick adaptation of migrants is good news for those back home, it extends cross-country solidarity, and works toward inspiring geographical mobility of additional groups, thereby feeding local economies at both ends. Hence, migration becomes a source of pride, an embodiment of openness, a gesture of cohesion on the part of the community of admittance, a clearly benevolent economic incentive, and, on a more general level, a strong building block of national identity.

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5. Hungary lost two-thirds of its historic territories and some 60% of its population after the First World War. After regaining the “lost” territories in 1938, the ultimate borders of the country were largely drawn according to the 1920-principles in 1945. As a result of subsequent waves of emigration in the 1930s, between 1945 and 1948, and after 1956, the number of Hungarian nationals living outside the country now totals no less than 50% of those living within its borders (5 million, as opposed to 10 million). The largest communities live in the neighbouring countries (Romania, Slovakia, Serbia, Ukraine and Croatia), and they are the major source of current immigration.

In sharp contrast to the manifold positive traits of migration, the recent history of ethnic/racial relations points in the opposite direction. The troubled relationship between non-Roma and Roma Hungarians dates back decades, if not centuries. However, post-communist transformation has given new impulsion to the multi-layered conflicts between the majority and the country's sole, but numerically substantial ethnic/racial minority.<sup>6</sup>

The intensified ethnic/racial tensions are in direct association with the profound shaking up of the customary ways of life that the systemic changes of the early 1990s have brought about. Fuelled by widely shared frustration over the unmet expectations of post-communist transformation, loud public condemnation of the working of the prevailing welfare arrangements has grown into a primary political concern during the past decade. Criticisms have become ever sharper for the undiminished insecurity of daily life, for the unjust and lasting sacrifices that ordinary people have had to make as a result of the coupled processes of marketisation and privatisation, and also for the proven incompetence of the new democratic institutions of governance at stopping the growth of inequalities and the spread of extreme poverty (Jones and Revenga, 2000; Kochanowicz, 2000; Ferge, 2000; Offe, 2001; Kornai, 2005).

In this general climate, it is the country's Roma minority that has been singled out by the majority as the primary group which, by "misusing" and "over-consuming" the diminishing public resources, can "justly" be blamed for the ill-functioning of the system of social protection. The exceptionally high occurrence of poverty in Roma households<sup>7</sup> is interpreted as the manifestation of "culturally ingrained" inaptness that can be corrected only by well-designed long-term interventions aiming at behavioural and attitudinal change. In support of such claims, widespread Roma unemployment is seen by the general public as a sign of laziness; the high number

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6. Though the statistical indicators do not explain the tensions, they still have their lot in its daily reproduction. According to the data of the latest Census in 2001, the overall proportion of the 12 registered national minorities totals 3% of the Hungarian population. In contrast, a recent nationwide survey found some 660 000 Roma in the country, that is, their ratio can be estimated at 6-7%. Since fertility rates of Roma women are significantly above the national average (284 as opposed to 188 deliveries for 100 married women in the respective groups), population forecasts estimate a proportion of 10-11% by 2020 (Kemény, Janky and Lengyel, 2004).

7. In contrast to the 13-15% average national ratio of households living below the poverty line (which is defined at 60% of the average per capita income), the respective proportion proves to be as high as 70% in the Roma community (Spéder 2002; Kemény, Janky and Lengyel, 2004; Szalai 2007).

of children in Roma families is seen as the embodiment of “irresponsibility” and disinterest in family planning; poor housing and ill health are taken as indicators of simple-mindedness and cultural backwardness, etc. In short, the undeniably higher-than-average risk of poverty among Roma, the chronic character of their destitution, and the consequent dependence on assistance from public resources, give rise to culturally constructed and deeply prejudiced argumentations that, when translated into practice, induce attempts to degrade them in day-to-day social relations. In turn, the hostile attitudes of the public provide justification for the local organs of the state to segregate Roma clients into second-class services and to apply punitive actions and educative efforts that make access to support conditional on “proper” behaviour and personal performance.

It is perhaps unnecessary to say that, besides individual humiliation, such endeavours have far-reaching negative consequences on the cohabitating communities and also on the macro-level social and political relations of Hungarian society. They create competition between the “good” and the “naughty” poor; imbue the everyday interpretation of poverty with cultural/ethnic elements i.e. “ethnicised” cultural elements, thus giving strong ideological backing to ethnic/racial subordination; legitimise diverse policies for the non-poor and the poor; and, above all, undermine the universalistic contents of citizenship and democratic rights.

Despite all these dangers, the current process of post-communist transformation of Hungary’s inherited welfare system strongly builds on the indicated cultural/individual approach. In the discussion below, I intend to outline the interplay between the ideological orientation previously mentioned and the actual steps that have been taken to reduce the presence of the once omnipotent state, clearly to the detriment of the most defenceless social groups – above all, to that of the large community of the Roma poor.

To make the point clear, a brief historical overview will be needed. In the first part of the paper, I will outline the competing visions on how to decompose the inherited central state arrangements, as argued for in the early 1990s. I will then present the ideological foundations and the political rationalisation of the winning option: the drastic restructuring, and simultaneous financial impoverishment of the fields of social services and income redistribution in order to serve the primary goals of swift transformation of the property relations through massive privatisation, and the speeding-up of the transition towards a market-regulated economy. Though the immediate consequences (rising unemployment, spreading homelessness, swiftly increasing rates of child poverty, massive

pauperisation of even some parts of the middle class, sharpening anti-Roma discrimination) were seen by most contemporary analysts as transient phenomena that would automatically wither away with economic recovery, neither the extent, nor the depth of poverty have significantly decreased during the past ten years of steady growth, while ethnic/racial divides and open discrimination in welfare distribution have become more pronounced, even legally and institutionally ingrained.

A critical review of these unforeseen developments will be provided in the second part. The discussion will show the contrast between the declared goals and the factual results of the reform. It will be shown that, contrary to the initial expectations of increased efficiency, better targeting, and more social justice, the combined steps of service-impoverishment, financial desertion, and the radical decentralisation of decisions on entitlements, have led to keeping the poor in poverty while sharply selecting among them. Further, these very processes have assisted the rapid spread of the interpretation of poverty in terms of “cultural otherness” and individual failures. As I will point out, such lay explanations have played a definite role: they helped to maintain the fragmented system of provisions, with its deeply ingrained relations of dependence and subordination, along the society’s ethnic/racial divide.

In attempting to reveal the deeper causes of the long-term maintenance of the prevailing arrangements, I will then discuss, in a broader context, the rationale of running the welfare system in its current form. A number of important – though hidden – sets of interests will be shown that divert the system towards the malfunctioning indicated above and that constantly reproduce the ethnicisation of poverty to the detriment of the country’s Roma minority. It will be evidenced that the given order benevolently serves the “lawful” separation of the precious productive groups and the poor and it automatically keeps the welfare clients away from claims on the general funds, thus helping to finance speedy modernisation in favour of the better-off groups alone. Further, by sharply differentiating according to culture, behaviour, diligence and “aptness”, the current arrangement induces harsh competition among the poor that works as a self-sustaining machinery to discipline them, while also efficiently helping to keep welfare expenditure low.

The beneficent implications of the system for running daily production come in addition: the trap of losing entitlements upon employment keeps the majority of the Roma poor in the informal economy, which then provides the necessary “reserve army” of cheap labour for those domestic

firms that could hardly otherwise compete in the world market. Moreover, a number of short-term political interests also play an important role: radical decentralisation in its contemporary form helps to cover up the deeper structural causes behind the persistence of poverty, and keeps daily manifestations of the phenomenon away from the “normal” way of life of the majority. In this way, the rigid walls of separation between the successful majority and the failed poor assist in maintaining peace amid the multifaceted conflicts of post-communist transformation.

## **2. Post-communist welfare reforms and the rise of a dual order**

Upon the collapse of state-socialism, immediate dismantling of the once omnipotent communist state was seen as the key to achieving profound systemic change in the societies earlier under Soviet rule. In this unprecedented historic process, reforms of social security and welfare were put high on the agenda, and were among the few unquestionable preconditions of genuine change. Urgency to meaningfully limit the presence of the centralised state in these areas was envisaged due to a range of serious legal and financial considerations. As to the legal aspects, it was a widely shared view among domestic and foreign advisors, economists, and financial experts that, without cutting off the strong bond between the centrally administered schemes of redistribution and individuals’ entitlements to benefits and provisions, the very essence of the systemic transformation would be jeopardised. Neither the reallocation of properties, nor the recruitment of labour, nor free entrepreneurship as the fundamentals of marketisation, could be successfully launched otherwise. As to the financial side, the equally widely shared views on the former “pre-mature welfare state”<sup>8</sup> (Kornai, 1996) implied that welfare expenditure had occupied too heavy a weight in the yearly state budget of the late 1980s. As a result, it should be substantially reduced in order to reappportion funds for the primary purposes of transforming economic manage-

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8. The communist system of welfare as a structural component of the overarching totalitarian power of the party-state has left behind a most serious legacy for the transition economies. Amid the new conditions of the market, the inherited services prove too excessive, too under-regulated and too expensive for the relatively poor economies of the world once under Soviet rule. The tension arising between customary “universal” access to social provisions and the actual capacities of the state, that have to be seriously limited for the sake of marketisation, are denoted by János Kornai’s widely cited term the “pre-mature welfare state”, meaning the historically-informed, specific macroeconomic condition of post-communist transformation.

ment according to the rules of the market, and also to fund substantial modernisation and economic adjustment.

But another important principle behind advocating revolutionary reforms in the broadly- defined sphere of welfare was to increase social justice and efficiency. It was a recurring motif of the criticism of social policy in the late period of state-socialism that – contrary to the declared goals of the communist regime – central redistribution, strictly linked to employment, rather tended to increase income inequalities than to moderate them. Moreover, by originating entitlements from compulsory full employment, the misconstrued concept of “universalism” implied massive social injustices through regularly channelling substantial provisions to the relatively prosperous strata of society. Therefore, when laying down the principles of the new welfare system, one of the fundamental goals was to eliminate “waste” – in plain terms, to ensure that only those really in need received supplementary sources of assistance through redistribution, and then only to the extent of their neediness. It could be hoped that with all this, the new system would become not only more targeted but also more just: public money was to be spent only to meet the needs acknowledged by consensus, and only for those falling behind the widely agreed level of neediness. At the same time, the fortunate majority above this invisible, yet generally acknowledged line of true poverty was presumed to follow other paths opened up and regulated by the market (contribution-based provisions of social security; private pension schemes; market-related benefits in health care, etc.). Hence, the new arrangements were thought to automatically keep apart the two purposefully designed subsystems, with their clear-cut mechanisms of distribution, to meet two distinctively, but justly defined sets of demands.

The technical and practical considerations underlying the transformation were linked to the assertion of these new ideas of justice and efficiency. While the universalistic considerations and welfare aspects of the centrally-distributed provisions weakened markedly with the introduction of a sequence of new regulations, the dramatically reshaped division of roles between the central bodies of welfare distribution and the significantly empowered local authorities, left the definition of the scope and content of “customarily acknowledged” needs to thousands of distinct urban and rural communities (Vági, 1991; T.M. Horváth, 2000). With this, the new decrees implied that in the area of needs at the most minimum, rules could be set up with general validity, but at the same time it was also made clear that henceforth the central state was not prepared to give either legal or financial guarantees for their satisfaction (A. Horváth, 1995).

The new principles and their implementation proved extremely powerful. Within just a few years, a logically constructed, fully-fledged welfare regime has evolved with two distinct subsystems. Put into clear legal and institutional arrangements, it is now the rules of business that guide people with regular earnings and/or interests to income-related benefits, tax reductions, contribution-driven social security provisions, etc. in the first subsystem, while in the second, it is primarily a range of locally-defined and severely limited welfare provisions that are to complete the poor resources of those who, for a number of inter-related socio-demographic and individual reasons, fail to perform successfully in the market.

Thus far and at a first superficial glance, one can but recognise here the embodiment of neo-liberalism that had been widely claimed to navigate the process of post-communist transformation (Bokros and Dethier, 1998; World Bank, 2001; Rutkowski, 2004). After all, it is exactly this dividing line of success/failure advocated in the market that provides the justification to direct people within the mutually exclusive arrangements of welfare described above. However, when one looks more closely, the picture changes significantly when looking at the role that the state plays in making the division. For it becomes clear that it is not the market per se, but the marketised shares drawn from the state's revenue at the expense of welfare, that are at work in the background.

Let me briefly outline how such a strange development has come about. The origins date back to the social history of the 1980s. By that time, the great invention of liberalising the planned economy through the limited functioning of the so-called second economy had developed to a rather high degree in Hungary. As a number of studies convincingly demonstrated, the way of life put on the combination of two pillars - one based on work, in the formal and state-regulated segment of the economy, one rooted in an intensive and informal family-run production - became a model followed by no less than some three-quarters of households, and assisted the political stabilisation of the regime as much as its economic operation (Szelényi, 1988; Kemény, 1991; Juhász, 1991; Gábor 1992; Kuczi and Vajda, 1992; Laki, 1998). Beyond the immediate advantages, the widespread practice had also numerous, positive and lasting consequences that later contributed to Hungary's pioneering position among the transitional economies of the 1990s (Farkas and Vajda, 1990; Laki, 1998; Laki and Szalai, 2004).

However, forced and enduring cohabitation of the two economies also had some deeply problematic implications. Given the unquestionable domination of the rules and requirements of the state-controlled first economy

above the second, the scope, time and energy that people could devote to their productive activities in the private sphere had to be adjusted – better to say subordinated – to the activity of the planned sector. At the same time, some flexibility still had to be maintained: limited acknowledgement of the productive needs of the second economy also had to be inserted into the daily functioning of the system. Amidst the constant efforts to create the necessary balance, it was the very field of state-run welfare distribution that provided the necessary bridging between the perpetually clashing needs. Innovative new benefit schemes in social security and income maintenance were set up to simultaneously secure unchanged domination of the party-state's command over one's working capacity and the tacitly shaped permissions to temporarily withdraw from it (Szalai, 1991).

However, the development of such new double-sided programmes gradually undermined the classical corrective functions of central income distribution. For it was an ever-increasing portion of the public welfare funds that was channelled into semi-private production in the second economy: benefits became customarily used as “salaries” for unpaid informal work, and/or as extra payments in addition to one's (otherwise low) earnings in the formal sphere (Szalai, 1998; Ferge, 2000; Spéder, 2002; Tóth, 2005). In this way, a rapid erosion of the benefit schemes has evolved, to the detriment of those living solely or mainly from such sources, and henceforth the political innovations made their grave contribution to the spreading of poverty by the late 1980s (Szalai, 1998; Ferge, 2000). With the systemic change, inherited poverty has been turned to massive social exclusion. In the eyes of the majority, it seemed justified to blame the poor for their earlier “keeping away” from the covert market-relations of the second economy and to question their right to public support on these historic grounds. These widespread attitudes have heavily contributed to the continuation of converting welfare funds into support for business. Instead of combating the poverty of the “undeserving” groups, halting impoverishment of the “diligent” middle class has become a preoccupation of all the political forces, and it has gained unquestioned primacy in designing any future reforms in welfare.

In this way, the once structurally constructed bond between the state and the market has been reinforced according to new needs and legitimising ideologies. In light of the deficiencies in the post-1990 transformation process, this is, however, no surprise. As I will show below, there is a wide range of old and new, transient and lasting interests that provide the backing to maintain it at all costs. In the first place, the economic motives are obvious. Independent economic activity, entirely separated from the state, requires

stable capital backing and a firmly established market, but neither of these conditions could be created in the preceding decades of state-socialism (Voszka, 2003; Laki, 2003; Laki and Szalai, 2004). Hence, mere survival of the domestic business, and together with it, the country's potential to keep pace with sharpened competition on the world market, have been at permanent risk. This is why the need for the state pillar in the raw material sense has been a built-in constituent of post-communist transformation and economic adaptation ever since (Voszka, 1998; Báger and Kovács, 2004).

At the same time, the need for the financial presence of the state has been kept alive by the fact that economic restructuring has induced erosion even in those market relations that had hitherto been regarded as more or less stable and "everlasting". The privatisation of the state firms has disrupted the state order that was thought to be secure, while the collapse of the traditional eastern markets and the rather difficult access to the substitute western ones, have confused and endangered the established export relations. Furthermore, the intense inflow of foreign capital and consumer products has also led to heated competition on the domestic sales front. All this has greatly increased the risk of full independence, and strengthened the role of the state as a buffer (Báger and Kovács, 2004; Szalai, 2007).

However, the causes for claiming the state's long-term protection from independence include not only direct economic components, but also cultural and attitudinal factors. Above all, it is worth mentioning the apparently lasting boomerang effect that has accompanied liberation from the political power of the state. Paradoxically, the decades of resistance to the state as oppressor have quite clearly been reversed, and while various corporate bodies and others only clung to the state distribution policy out of fear and defencelessness, they now make angry claims on it. Behind the opposing principles of privatisation intended to regulate the plundering of public assets, intensely competing demands for compensation can be detected. Widely varying groups consider that time has come for the state to compensate them for their historical grievances and their decades of "lagging behind", to give them assistance for the advancement they "deserve", but have never achieved – and they do not cease to outbid each other in submitting various claims for compensation that are "legitimate" when considered separately. Having the arguments justifying these claims accepted and embodied in the legislation and, consequently, in the yearly plans for central financing, is a question of rude political force. In this way, access to the public funds has been mostly the direct function of the latent bargaining positions established prior to the systemic change

(Laky, 2004). As a result, attempts at slimming down the state have, as yet, resulted in its actual fattening: the portion spent by the central state for financing itself, as the designated agent of administering the truly complex process of transformation, has been rising constantly during the past decade (Central Statistical Office, 1997 and 2004).

Some other arenas of social life throw an even clearer light on the ambivalence towards the state indicated above. The large number of civil societies, associations and foundations that have been set up amidst the new democratic conditions are model cases of the simultaneous demand for self-organisation and for bureaucratic recognition (Central Statistical Office, 2002). The situation is similar in the management and regulation of personal income. Enterprise managers and trade union activists are unanimous in protesting against all forms of central restriction of wage bargaining as “remnants of old authoritarian routines”. At the same time and with the same momentum, they also rely heavily on the very same central state. They all use the old ways that have proven successful in obtaining individual treatment in order to win compensation from various bodies of the central administration; either because of the worsening market conditions due to sharpened foreign competition (the domestic pharmaceutical firms, for example), or for acknowledgement of the incomparable importance of the service they provide (such as recurrently claiming centrally-funded rises in salaries for teachers, health-workers, etc.), or for the extra costs due to the increasing prices on the world market (Voszka, 2003; Bager and Kovacs, 2004). Again, the claims, taken individually, can hardly be labelled as unfounded. Still, together they end up by continuously tapping the public resources, and by doing so, they contribute to the very reproduction of all the persistent insecurities, imbalances, and ambivalences discussed so far.

In sum, the inseparability of the state and the market, together with the tight interlocking of the public and private spheres and resources of living, seem profoundly ingrained in post-communist Hungarian society and its economy. Despite all the strong motives for fully-fledged independence, the majority have serious reasons and deep-rooted interests in maintaining the bond – even though the overall costs have been skyrocketing and have grown so as to effectively hinder further economic advancement of the country as a whole (Kornai, 2005; Government of the Republic of Hungary, 2006; Central Statistical Office, 2004 and 2005). There is only one arena where the door still seems to be open for repeated cuts and this is the area of welfare for the poor. As pointed out above, here the state can rely on a vast political consensus. All its efforts to apply especially strict rules without concessions are met by massive approval on the side of the majority. Let me discuss briefly how they work in daily reality.

### **3. The ethnicised ghetto of poverty built from the bricks of “cultural otherness”: the social exclusion of Roma**

As outlined above, the creation of a publicly funded separate subsystem for providing efficient and just welfare exclusively for those in need was an inherent part of the liberal welfare reforms of the 1990s. While the primary goal certainly was to contribute to the desired diminution of the state, some further important considerations were also involved.

First of all, it was widely believed that poverty would automatically wither away with economic recovery. The arguments were in line with the reigning doctrines in policy making: amidst the conditions of continuous growth and the concomitant expansion of the labour market, poverty would shrink to a residual size with successful economic adjustment and, if at all, it would hit people only temporarily. Secondly, it was also believed that improved targeting and local schemes set up through community consensus, would ultimately result in support generous enough to alleviate the conditions suffered by the poor. Thirdly, by swiftly decentralising a great number of formerly centrally-administered schemes and provisions, it was assumed that the key decisions about people’s daily lives would stem from insightful knowledge and personal acquaintance, and that thereby fairness, flexibility and accuracy would automatically result.

However, history has nullified all these expectations. As amply demonstrated by a number of independently-run studies that have repeatedly arrived at the same conclusion, there has not been even the slightest reduction in the degree of poverty and social exclusion has even increased<sup>9</sup> (Spéder, 2002; Havasi, 2002; Szalai, 2002; Szívós and Tóth, 2004). Welfare assistance has obviously done little to help the poor. The question therefore arises: what are the reasons behind the failures?

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9. In the most difficult years of the so-called transition crisis (between 1990 and 1994), the yearly ratio of households below the poverty line climbed to 17–18%. The ratio somewhat declined with economic recovery around the mid-1990s, however, it has stabilised at the still relatively high level of 14–15% ever since. In other words, neither growth, nor the differing policies of the subsequent governments, nor Hungary’s joining the European Union, could provide an efficient cure. It is perhaps even more worrying that the proportion of the chronically poor has been on the rise in the meantime: it went up from about 6% to 8–9% of all households. A closer look at the internal composition of this latter group reveals the ethnicised character of the phenomenon. While the ratio of households in long-term poverty (i.e. those below the poverty line for more than one year) has dropped from 9% in 1992 to 3% in 2005 in non-Roma households, the respective proportions have not changed among Roma – they have remained as high as about 38% up until today (Spéder 2002; Szalai 2007).

Only a partial answer can be given by looking solely at the working of the system of local welfare assistance. As to its principles and constituents, the scheme is certainly neither better nor worse in Hungary than similar arrangements elsewhere (Ferge, 2000; Szalai, 2007). That said, one can then suggest that it is probably more the implied additional social, economic and political functions that are responsible for its striking inefficacy, than any particular internal characteristics of the scheme as such.

When looked at from a broader perspective, it is justified to say that the creation of a separate local system exclusively for the poor has served a number of goals other than actually helping the poor. The primary achievement of Hungary's decentralised assistance scheme has indeed been to carry out the intended transformation of the earlier all-embracing central-state redistribution (Central Statistical Office, 1997, 2004 and 2005). Together with this, the scheme has accomplished a perhaps even more important mission: the channelling of an important section of the affected social groups into a sealed subdivision of provisions. True, without the great expansion of welfare assistance as a new, dynamic branch of the economy, it would hardly have been possible to break up the former oversized system: while "guiding" large strata into the market-regulated field of provisions, it was profoundly necessary to "evict" other large groups from the potential use of central funds – and the local schemes reacted perfectly to this call.

The involved "exchange" not only required the application of financial techniques for regrouping, it also opened the way for important mobility processes. Another important function of the rapidly growing welfare assistance system was that by calling into being thousands of new offices and tens of thousands of labour market jobs with decent middle-class positions, it created a refuge for many who had been in danger of losing employment amidst economic restructuring (Central Statistical Office 2005).

An examination of local support structures in their natural community context reveals further important functions beyond these macro-level roles. After all, the scheme turned out to be instrumental in maintaining social peace and providing the smooth operation of relations in local community life. Firstly, it has provided a professional machinery and institutional background enabling the non-poor majority to deal with poverty as a minority problem, separated from its own "normal" affairs. Secondly, the system has offered an efficient means for managing fluctuations in the local labour markets. Thirdly, it has provided reliable guarantees for a constant supply of human resources for the least qualified and least

desired jobs. In addition, the fragmentation of decentralised means-tested provisions in substitution of the earlier centralised arrangements, has successfully hidden the true selective nature of the system behind its welcoming appearance: the potential question of social responsibility for poverty has been almost automatically reduced to the question of improving the level of expertise of a few local welfare workers, a routine problem that could and should be handled within the walls of the local authority.

It is important to stress that while exercising the economic and political functions listed here – which at first sight appear foreign to the spirit of assistance – the considerations of fairness and neediness mentioned above lose nothing of their significance. Quite the contrary: the providers are not being misleading when constantly affirming that their work is guided primarily by these very considerations. However, by transforming the principles into hundreds of thousands of decisions on particular cases, they are continuously doing delicate “translation” work in order to justify nothing but selection. In the final analysis, it is thus the legitimisation of the prevailing deep social divides which is assigned to them as their chief role in the broad division of labour. This fundamental trait of the assistance scheme is inescapable. Because by making distinctions between the needy and those who are not entitled to receive support, by always rationalising this distinction, and by channelling clearly separated groups of clients into different benefit (or treatment) paths, what the local welfare distributors are actually doing is providing an official basis, sanctified by the decision of an authority, for the acceptance of difficult social and labour market selection, and more generally (and unquestionably), for the institutionalised procedure of discrimination.

The keyword here is “distinction”, which, as said, is based on the level of need. However, the level of need is not self-evident; it is surely not identical with income. For no just categorisations can be made exclusively on weighing up one’s resources. After all, one knows from daily experience that living is not only a matter of means, but also of attitudes and behaviour. One person economises, the other is happy-go-lucky, one saves on heating, the other throws away money on alcohol, etc. Hence, in order to be just in selecting the truly needy, and also to keep order and justice, some additional characteristics are needed – otherwise the idea fails in its entirety.

Hungary’s invention is easy to guess: it is the centuries-old idea of “deservingness” as the most powerful, just basis for selection. However,

its renewed application has led to extraordinary results: within a decade, local governments have cut back the take-up rates of public assistance by no less than some 65%! (Ferge, 2000; Havasi, 2002). In other words, instead of providing solidarity and generosity, “deservingness” has meant, in practice, a strong justification for the majority’s claim to reduce public support for those in need. As recent surveys have unequivocally shown, only a relatively narrow circle of the needy can be sure that, once they have been accepted by the welfare office, they can count on its unconditional support. But the majority of the poor who apply for assistance do not belong in this group. The local office workers – like the widest circles of public opinion standing behind them – share the strong view already outlined that the poor share the blame for their situation and they can certainly be expected to make at least some attempts to get out of it. On the basis of such a widely held conviction, nobody would then question the rightfulness and indeed the necessity of taking into account the degree of the applicant’s “faults”, “errors”, “failures” and “irresponsibility” in judging applications for welfare assistance, to be paid from nowhere else but the taxpayers’ money. Hence, it is the primary duty of those assigned to spend this money to scrutinise each case in detail and to decline all the claims that prove unjustified.

The errors, shortcomings and irresponsibility that can be listed as a basis when making a decision come in many different forms, but there are two particularly serious cases of “own fault”. One is “irresponsibility” shown in having children – because even if there is little money, the family can still live on it with good and far-sighted family planning. And the other is a “failed” attitude to work – for people can always do work of some kind if they really want to.

A vast body of literature produced to refute them has still not managed to topple these two, related, dogmas. It is perhaps hardly necessary to argue at length that the main force that keeps them alive is their clear ethnic/racial content, giving the local communities a handy confirmation of the conflict that causes the most tension in their everyday lives: the feelings of the non-Roma majority, who suffered relative losses or who have at least lived in a state of constant insecurity amidst the lengthy process of economic transformation, towards the Roma minority living in extreme and enduring poverty. Furthermore, the implied ethnic/racial differentiation entails some beneficent outcome also in the economic sense: it helps to keep claims for local assistance within limits. After all, amidst the rising competition and, in fact, heated rivalry between the Roma and non-Roma groups among the truly needy, it is always the “others” who

are to blame for eating up the scarce local funds and for lowering the sums actually delivered while increasing the rates of refusal.

Of course, in demanding that the cases of “own fault” be carefully screened out, no one states (openly) that “we are talking here mainly about the Roma (and the lumpen poor who have become like them)”. But even so, everyone understands what is implied. And the practice of welfare assistance converts this widely inferred thought into money, while at the same time, it also transforms the personified struggles of openly racialised pre-selection into the rule-governed co-operation of the office and its clients, under the guidance of covertly racialised mechanisms of distribution.

A recent survey on local welfare allocation reveals the hidden but efficacious racial content of this second – rule-governed – stage, tailored exclusively for those who passed the first level of pre-selection for establishing their “deservingness” (Szalai, 2007). The final result of the analysis can be summed up in a few short sentences. In the first place, the data show that the more children one has, the higher the risk of being rejected. Furthermore, if accepted, the sum ultimately awarded in welfare assistance is in inverse proportion to the degree of poverty – the larger the family, the smaller the aid granted to assist them. Additionally, it is clear from the findings that these associations apply only to Roma families.

The situation is more complex for the second qualified case of “own fault” – a “failed attitude” to work. Applications for welfare assistance in this domain can be rejected on two grounds: if the applicant works, and if s/he does not. In the first case, because the work is not being done “in the right place” and “under proper contract” – in plain words, the income is earned illegally. In the second case, because although it is rightfully expected, he or she still does not take a job, or is “choosy” about accepting the (public) work intended solely for welfare applicants.

It is easy to see that, regardless of their personal attitudes, the staff of the local welfare offices simply have no means at their disposal to properly react to the present labour market position of those many applicants – for the most part Roma – who were thrown out of regular employment ten-fifteen years ago, and since then have, at best, been able to find casual, unregistered “black” work. From their viewpoint, this labour market situation does not exist. In response, they either try to force the clients into “proper” jobs, and thus regard their official task as principally that of a “criminal prosecutor”; or they acknowledge the reality and become silent

accomplices with the “cheating” clients, in which case they put their own positions at risk. Either way, continuous conflict is unavoidable.

It is this that provides the dynamics of one of the main roles of the welfare offices in today’s Hungary: meeting the local demand for the worst jobs and providing an outlet for labour market fluctuations. Survey data show that Roma – and the very poorest non-Roma who share a similar fate – came to see this long ago. It was the pressure of a number of daily facts that taught them. The first of these is the extreme segmentation of the Hungarian labour market dating back to the very origins of the post-1990 economic transformation. As a result of the gradually intensifying segmentation, the poorest strata of workers (with a heavy over-representation of Roma among them) are now almost entirely excluded from any access to proper jobs<sup>10</sup> (Kertesi, 2005). The second set of lessons that the poor – especially, the Roma poor – had to draw, was that marketisation from below has led to unprecedented competition among those in employment to capitalise on all the good jobs that arise from the old, informal production system. In this process of marketisation from below, access to work is still, at the most, only partly regulated by demand and supply, and is largely a question of trust and connections, where the former relations of mutual favours play the main role in distribution (Kuczsi and Vajda, 1992; Kertesi, 2005). The poor generally did not have and still do not have anything to offer in exchange, and so the well-paid contracts, commissioned work, consulting projects, etc. remain beyond their reach. And even if they have the necessary training and experience they have little hope of being the ones to learn in time about any opportunities that exist.

In sum, in Hungary today well-paid, protected and secure jobs are open only to those who already have such jobs, while those who, for one reason or another, never entered this circle or were forced out it are denied the access to work. The poor, especially the Roma poor, are shockingly under-represented in the first group, while dramatically over-represented in the second. The cultural arguments that owe the lack of employment to “bad” socialisation and the subsequent “faulty” attitudes to work

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10. In comparison to the average 7–8% yearly rate of unemployment, the respective ratio is constantly around 45–48% among Roma adults in their productive years. Moreover, some 80% of them have no chance at all of becoming re-employed. Their squeezing into the informal economy thus proves terminal, something that Roma children seem to be forced to continue to do without any promise of interruption (Kemény, Janky and Lengyel, 2004; Kertesi, 2005).

have to be considered against the brutal facts of sharp segmentation and dramatic exclusion that are further accentuated by a set of ethnic/racial implications.

Under such circumstances, it is taken for granted that if, on rare occasions, the possibility for even the worst kind of paid work arises, it is a must for the poor to accept it without hesitation or bargaining. These and similar facts should make it clear that whether the poor have their hands full with work or not does not depend on their attitude. It is the reality though, that their efforts remain largely invisible: to themselves because of the very small payment they receive for the extreme exploitation, and to the outside world because no written contract was made to set its terms, no records were taken of its details, and further, because neither they, nor the employees, paid any taxes or social security contributions on it. On top of the obvious defencelessness, it is a most tragic irony that, amid the indicated conditions, such a traceless existence is in the own best interests of the poor themselves. The situation is clear: if they do not even have a chance of a proper occupation, then they should at least be allowed a livelihood; and for this they have to apply for welfare assistance, which the office would refuse to give them if it knew about their “illegal” incomes from work. At the same time, these incomes from work are so little that they make no real difference, even to the lives of the poorest of the poor. Under such circumstances, welfare assistance is quite literally essential to mere survival – obtaining it is of vital importance. And in the same way, it is a vital question that the sharp-eyed welfare providers should be reassured of: the concealment of the casual work that now and then turns up is in the common interest of the office and the client.

These common interests then guarantee two things. On the one hand, they secure that unregistered employment enshrouded by the workings of local welfare assistance continues to flourish unchanged and as needed; on the other hand they safeguard that the bargain to be struck between the provider and the client remains a matter of internal struggles between the rather defenceless office workers in service of the public will and the extremely defenceless poor – above all, Roma poor – in service of demonstrating general “justice” and wise economisation of public funds.

In this way, the ghetto is constructed out of common interests. All that remains is to safeguard its walls, so that social peace can be maintained and the majority can accomplish its huge national tasks while enjoying the gifts of democracy, which – for the foreseeable future – implies only their full citizenship. The persistent “cultural arguments” about explaining

poverty along ethnic/racial lines are of utmost importance here: without their powerful justification, full citizenship, with all that it means, should embrace all citizens of the country, the (Roma) poor included. However, as discussed earlier, other tasks seem to be ranked higher in the eyes of the Hungarian public at this stage of its lengthy post-communist transformation. It is enough to recall the pressing chores of modernisation, quick adaptation to an enlarged Europe, raising of the level of wages to support competition in the western market, etc. In this context, it seems wise and also “evident” to put the clearly domestic issue of poverty towards the end of the scale.

However, in a country with a democratic constitution and declared citizens’ rights, such a differentiation cannot be made in an open way. But if put in “cultural” terms, it immediately gives a reason for an important democratic principle: after all, citizenship is nothing but a contract between society and the individual to meet certain obligations in exchange for certain rights. Those who cannot meet the former should not expect society to provide the latter. In this vein, the liberal considerations of the usefulness of a separated subsystem of provisions for the needy are completed and are, at the same time, justified by the notion of “cultural otherness”. However, as we have seen, their bondage becomes the foundation of structural disintegration. After all, the coupled principles of unlimited competition in the market and “social expulsion” on the grounds of individual failure keep alive, as a rightful order, the institutional separation of an utterly closed world – a ghetto proper – for those whom the concepts apply: Hungary’s dramatically marginalised long-term poor and, above all, the Roma among them. The two coexistent subsystems of welfare – the rather generous public financing of the market and the meagre public provisions for those outside of it – reflect and reproduce the strange social contract in steadfast advancement towards a social structure divided along ever sharper fault-lines.

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### **III. Tailoring a universal health-care system to diversity: the hospital's good intentions put to the test by its immigrant users**

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#### **Introduction**

A framework of both ideological and technical/practical principles for identifying and regulating the health rights of migrants and ethnic minorities living in Europe has been established on the basis of various national, European and international political and legislative texts. These rights are very difficult to implement because the people concerned are often poor and their poverty is liable to be handed down from generation to generation. Many of them were already poor in their countries of origin and have become poorer still in their countries of destination, at least in relative terms compared to the average standard of living in local populations (Caritas Europa, 2006).

The factors tending to isolate poor migrants are therefore not confined to intercultural differences, which are very obvious in terms of different languages and heterogeneous lifestyles. Even for nationals of "old stock", poverty is a rift that is both economic and cultural, although the cultural aspect is obscured by its familiarity and ordinariness. The relations between the wealthiest and the least well-off, indeed between the dominant and dominated social classes, induces a sort of "cultural minority status" for poor people, who are nevertheless seeking their place in a host country of which the health-care system is an integral part.

However, a growing proportion of the immigrant population is now well-established, with a standard of living which is gradually coming into line with that of the corresponding socio-professional category in the host community. This means that these immigrants have become a socially active, economically interesting, prospective customer base. Where efforts to make our medical culture more sensitive to the diversity of the whole of society are concerned, the needs and wishes of immigrants for appropriate health care are increasingly becoming recognised

demands, particularly where they acquire a sufficient critical mass to be heard by the institutions, or indeed to form local or even national associations.

The association Migrations Santé France is an excellent example of this trend. It was set up in May 1968 by a group of young physicians who had been involved in the events in Paris, initially concentrating on the illnesses of migrant workers and their families. In the ensuing years, the association became institutionalised and gained access to public funds. Its leaders, who are now second- or third-generation immigrants, run training courses, conduct research projects and take part in debates geared to defining health policies for the migrant population. After combating tuberculosis and child mortality in migrant populations in the 1960s and 1970s, it is currently tackling intercultural adaptation and promoting intercultural competences. Moreover, many other associations, such as the Comité des familles – Survivre au SIDA (family committee – surviving AIDS), have emerged in recent years to help migrants and migrant families affected by HIV.

There are obviously highly complex relations between the “in-house” assessments and reforms conducted by medical institutions and the demands of the immigrant populations, and indeed between the well-being of migrants and the collective interest in a system of universal health care sensitive to all diversities. For a better understanding of these relations and to see how far the institutional good intentions match up to reality, it would be useful to take stock of the current changes in the hospital as an institution, and to identify and analyse the transformations that have been set in motion by and for immigrants, particularly those in “situations of hardship”. This inventory could then be used to highlight the main challenges presented to hospitals by migrant populations, either in terms of general principles or, more concretely, in terms of adapting health-care and staff training structures. If such consideration of cultural diversities is to be sustainable, it must be formalised in a series of institutional reforms and then included in the implicit power structure underpinning medical practice and its relationship with patients. Whether “foreigners” are transformed into “individuals” inside and outside of hospitals is no longer a technical matter of practice: the point at issue is the quality of our view of “others”.

## 1. Modern hospitals: the transformation of a key social institution

### a. *From the hospital as a place of hospitality and refuge ...*

The hospital's age-old duty to shelter people and provide them with refuge has been superseded by its modern obligation to cater for patients in the high-cost, hi-tech universe of state-of-the-art medical systems. Reception, rather than hospitality, has become a parameter for the quality of the modern health-care system. Charitable hospitality for a starving and/or sick "stranger" now lies concealed beneath the mask of legal obligations imposed on European health-care systems to meet emergency medical needs without discrimination and, broadly, to provide the requisite treatment for good health.

The hospital's sacred duty had to be observed in respect of anyone invoking it, and in fact, real or symbolic places often used to be reserved at family tables for any guests who might unexpectedly turn up, but this obligation has now changed. Whether for overriding ethical reasons or under a legal obligation to assist people at risk, the hospitality obligation is now confined to administering the requisite treatment, provided that the person in question is ill or very ill.

The old place of hospitality for pilgrims and poor people has become the main centre for the provision and implementation of medical techniques. The obligation to provide shelter no longer concerns such simple "un-medical" needs as hunger, cold, destitute or friendless solitude, the threat of justice or injustice, punishment or discrimination. In short, today's hospital is no longer a place of refuge. It is no longer a bone of contention between the rival powers and protections of church and state. In the collective imagination and in reality, the hospital, which is open day and night for all, is nevertheless still the place which immediately springs to mind when one is injured, ill or just at a complete loss. It is also the place where one takes people who have been found injured or have suffered trauma. It is also, in most western societies, a place of passage, mainly for births and deaths, in the sanitised environment, which has become a simultaneously worrying and reassuring feature of everyday life.

### b. *... to the hospital as the most expensive part of the health-care system*

Even though the high cost of hospitalisation far exceeds household budgets and would be inaccessible without the help of social welfare and

other insurance policies, poor patients from Europe or elsewhere usually have nowhere else to turn. By the same token, the person taken in is no longer a guest but a hospital patient.

In the Christian world the idealised guest who is welcomed in is the embodiment of the “brother in Christ”. The care with which he is provided, and which he is thanked for accepting, is regarded as an “act of reparation” vis-à-vis the suffering saviour. The effort expended on behalf of this guest is a sacred duty, which is sometimes difficult to perform but is obligatory, although it does have its compensations. Putting oneself to trouble for one’s fellow men can potentially benefit the salvation of the souls of those who help and love their brothers in all sincerity.

In our world of social welfare for all, guaranteed by secular national and international legislation, the status of the service to be mandatorily provided to poor people, including poor foreigners, has radically changed. The arrival of the poor person is no longer seen as an act of mercy and communion with a hallowed poverty. In hospital, for a while, poor people theoretically enjoy the same patients’ rights as all the rest, and are treated on an equal footing with all active high-level health-care consumers in western society. However, their medical status cannot obscure the fact that they are poor, particularly in the case of poor migrants, and this raises difficult problems vis-à-vis the provision of care. If they are unemployed or engaged in undeclared work, they are non-contributing consumers for whom the health-care service, which is just as expensive as for the wealthy, is paid for by a collective welfare effort. This tends to make migrants who are ill and in receipt of such assistance stand out as people whose rights are simultaneously granted and insidiously envied by society.

c. *From the principle of non-discrimination ...*

Thus the duty to open the hospital to all is not a mere informal trend, a sort of humanitarian duty, but a legal obligation, at least in most industrialised countries. In France, for instance, the *Code de la Santé Publique* stipulates that no one may be subject to discrimination in access to health care or preventive treatment (Article L1110-3) and that public health establishments, that is, public hospitals, must guarantee equal access by all to the treatment they provide. They are open to all people whose condition requires their services. They must be in a position to receive such people day or night, if necessary on an emergency basis, or to ensure their admission to another establishment (Article L6112-2). The second part of

this Article expands on the hospitalisation aspect by specifying that public hospitals must provide patients with the preventive, curative or palliative treatment necessitated by their condition and guarantee the continuity of such treatment, ensuring that after their discharge from hospital all patients enjoy the requisite living conditions for continuing their treatment. To that end, they must direct any discharged patients lacking such living conditions, towards bodies responsible for helping them in their situation of hardship.

This strict principle of non-discrimination accordingly affirms a universal equal right of access to and treatment in public hospitals. Therefore, all poor people, whether immigrants or not, are theoretically entitled to hospital care. But they must also actually manage to get to hospital, and their illness must be serious enough for them to be admitted. Furthermore, while the non-discrimination principle is mandatory for the duration of any emergency treatment, we cannot overlook the fact that, on discharge from hospital, the prospects for continuing treatment and optimum conditions for convalescence and good health are bound to be unequal, not to say discriminatory. The area in which uncertainties subsist and which calls for the establishment of additional rights, and which is also subject to possible challenges, is the boundary line between the body of rights shared by a given state's population and the proportion of these "common rights" which can be granted to immigrants who enjoy limited residence entitlement or might even be illegally resident.

*d. ... to a new analysis of obstacles to access to health care*

Even though our authorities are basically non-discriminatory, they are nevertheless subject to some degree of "sympathetic projection", and even certain prejudices influencing our relations with immigrants.

When, for instance, we compare their state of health at retirement age with other members of the population, we might imagine that "unfortunate migrants" are worse off. But strangely enough, it has been noted that within the same socio-cultural bracket, that is, poor people with difficult living conditions, migrants reaching old age enjoy better health than people from the same deprived sectors of the host society. The fact is that first-generation migrants were singled out by their peer groups as having the physical and psychological strength to confront the unknown and to shoulder the whole community's financial investment. There actually was a whole generation of people who were physically, socially and mentally strong, despite their material poverty (Lazarus and Abboub,

forthcoming). Where today's health sector is concerned, many surveys conducted in various parts of southern Europe, particularly southern Italy, have highlighted alarming signs of a major deterioration in the state of health of new immigrants, apparently because of their deplorable housing and working conditions. This worrying phenomenon is not, however, confined to the aforementioned part of Europe.

Nowadays, in the older immigration countries such as France and the United Kingdom, access to health care by "persons in situations of hardship" has become a matter of concern. The hardship theme has been widely addressed in political speeches, administrative circulars and professional training programmes, and is the subject of analyses and research projects, particularly in the field of access to the health-care system. The *idée reçue* used to be that the reason why first-, second- and third-generation immigrants, members of ethnic minorities and poor people in general had no access to care was because it was too expensive. It was long felt that a lack of financial resources on the part of individuals or families was the sole reason for failing to have access to health-care systems.

The French system has included a facility for free medical aid ever since the end of the 19th century, enabling the poorer members of society to have access to medical treatment, even if it was provided in a rather discriminatory, second-class manner. Such treatment was administered by urban GPs or hospital departments. Public hospitals were gradually required to open 24 hours a day to treat any people requiring medical attention, without means-testing or discrimination, which is the general rule governing the public hospital service. The problems of lack of access to somatic and/or psychiatric treatment, inaccessibility of health care, and hospitalisation under unsatisfactory or even appalling conditions led to the realisation that many individuals failed to have access to the said services for reasons other than their cost.

One striking example here is that of a municipality in Seine-Saint-Denis, which many years ago decided that up to the age of 18 dental patients should be exempted from the *ticket modérateur*, (the patient's share of the costs of treatment) to be paid after reimbursement by the social security scheme, in the absence of supplementary insurance. This meant that young people really had free access to dental care. The problem is that many youngsters failed to take up the offer. A brief survey showed that they were simply afraid to consult the dentist, especially in the case of boys. Men and boys have less experience of caring for their bodies than women. They have no experience of bleeding or of bodies which are

the subject of intensive medical scrutiny, often from puberty onwards, as have girls and women. In fact, boys are much more reluctant to take advantage of medical facilities.

So the fact of supposing that it was the lack of money, in France at least, that prevented the poorer individuals from having access to treatment missed the real point: where health care is concerned, entitling people to financial benefits is necessary but not sufficient. This means that if people who are ill but fail to apply for treatment are to gain effective access to health care, they might need psychological support because of low self-esteem and/or their total absorption with the concern to survive from day to day.

*e. Taking account of cultures, including our own, in order to grasp the culture of others*

More generally, if people are to change their relationships to risk factors and their reflexes and habits vis-à-vis access to health care, the cultural dimension needs to be taken into account. First of all, the approaches to prevention and access to the different types of treatment in a given society vary widely among individuals and groups. They also vary according to educational standards, medical knowledge and also the types of social role assigned to different groups, age brackets, gender, and the level of self-confidence and capacity for securing help. These remarks apply generally to all of us, and therefore specifically to migrants. Yet because of the obvious differences in their habits and sometimes their lifestyles, it is often migrants who point up the need to take account of the cultural dimension in our efforts to prevent and treat illness.

While this choice is obviously inevitable, it is also important to progress critically within our own cultural models. Surely the fact of wanting to give migrants optimum access to our society's health culture does not necessarily mean that this culture must be right and appropriate in all circumstances. The culture which we are offering should also be open to challenge. We might quote Ivan Illich's provocative statement in 1999 to the effect that, in the developed countries, the obsession with perfect health has become a predominant pathogenic factor. He went on to say that in a world impregnated with the instrumental ideal of science, the medical system is constantly creating new therapeutic needs. But the greater the supply in terms of health care, the more people maintain that they have problems, needs and illnesses. Everyone is demanding that progress put an end to physical suffering, maintain the vigour of youth and prolong

life indefinitely. No old age, pain, or death. They are forgetting that such disdain for the art of suffering actually negates the human condition.

Does this mean that it would be a mistake to add the expression “or social inequalities” to the wish for “no old age, pain, or death”, to be achieved in the progress of medical science? Does it mean that it is also the responsibility of the health system to reduce inequalities for both nationals and migrants? The good intentions of some hospitals would seem to point in this direction, although they do not explicitly say so. The critique of overall social institutions and “medicalisation”, which resulted from the new post-1968 sensibility geared, among other things, to preventing the eugenic aberrations of the 20th century, must certainly be constantly borne in mind when confronting excessive medical zeal in terms of prevention and therapy. However, the situations of physical and social distress faced by some people, especially migrants, and the objective difficulties with mutual adaptation to proper use of the hospital treatment system are so obvious, and the need to improve the response to them so clearly a matter of common sense that, in my view, we should not hesitate to seek to improve our structures and procedures.

## **2. The hospital put to the test by its immigrant users**

### *a. The hospital in the migrants' living environment*

Hospitals are often familiar places in the lives of new immigrants. Several thousand Malians live in Montreuil, and for those residing in hostels, almost exclusively men, whenever they are ill, with stomach-ache, a high temperature, a sore throat, or even a small injury or toothache, they simply pop round to the hospital. Of course, there are seriously ill people at hospital, but some also attend hospital for minor matters, bringing their friends along if they have insufficient command of the language to telephone or fill in forms. Some people also go for very basic types of care, which most families can manage at home. Hospital consultations or medicines are sometimes free of charge, unlike at the chemist's. Some workers also go to hospital for industrial accidents. If they are careful they can attend even if they have no official documents or money.

However, in the case of immigrant families with children using the free mother and child welfare services, social services and schools, hospitals are only resorted to in emergencies, as is the case for everyone else, particularly at times of the day or night when all other treatment outlets are closed. These services are extending their network to cover health care,

thus fitting in with the practices of European or extra-European migrants who are used to the various health-care facilities in their own countries, especially where they have been to school and college. The latter have no language barrier to overcome and so immediately use more of the various existing medical facilities. Where the medical benefit problems can be resolved, they find it easier to go to private GPs, especially if they come from regions where public amenities are under-equipped.

*b. The scope and limitations of the hospital*

On the matter of links between inequalities and diversities, including cultural ones, the Recommendation adopted by the Committee of Ministers of the Council of Europe in November 2006 on health services in a multicultural society explicitly points out that “inequalities with regard to health care affecting ethnic groups are linked to problems of access, the lack of culture competence in health-care providers, lack of essential provisions (such as interpreter services or translated health education material), all of which may be structural barriers to quality care” (Council of Europe, 2006b). This indirectly but significantly points to the limitations of the hospital, which can have little direct influence from behind its walls on such socio-economic factors as poverty, unemployment, unhealthy living conditions and occupational hazards, which affect the population unevenly and which might explain most of the inequalities in the health field. Furthermore, the text recalls that “the issue of diversity and its management is not exclusively related to the presence of ethnic minorities in present-day Europe but should rather be viewed as a feature of the European population as a whole” (Council of Europe, 2006b). So this is a general-interest or strategic argument to overcome explicit or tacit reluctance on the part of local populations to “do more for migrants”.

In order to meet the needs of any person, whether a migrant or not, we must be able not only to make “technical gestures” but also to see, hear, know and heed our own reactions, especially in relation to people and groups with different attitudes and habits. In this connection, the recommendation already mentioned states that “a population diversity perspective should be incorporated into the basic training curriculum of all health-care professionals and social workers, as well as in the continuing education of these professionals” (Council of Europe, 2006b). This text stresses not only the requisite standard of knowledge but also such attitudes as cultural sensitivity, the influence of prejudices, (unconscious) rejection of ethnic-minority patients and the development of “intercultural know-how” by health-care professionals.

These aims are also supported by an increase in ethnic diversity among health-care professionals and social workers, encouraging their access to the social and medical professions. Nor can we overlook the actual or latent conflicts in which some ethnic minorities are involved, either among themselves or against the host society. This raises the issue of helping ethnic professionals to face up to these dangers. Moreover, while nowadays “adequate measures have to be taken to make it possible for ethnic minority health professionals who have been trained abroad to get the qualifications needed to exercise their profession in the host country” (Council of Europe, 2006b), in several countries, such as France, campaigns are needed to ensure that such professionals have equal rights and remuneration with nationals, where they have equal competences and responsibilities.

Moreover, the presence of mediation services or staff speaking the patient’s language encourages the effective exercise of the right to information about his or her health, where the only obstacle is language. However another, more insidious, difficulty is the lack of any basis for understanding western medical reasoning and medical science, which are sometimes far removed from the patient’s representations and knowledge of illness and treatment. In such cases, the support and agreement of the patient who is to take part in the decision-making process are liable to involve transferred trust and frightened submission rather than an informed, responsible cognitive approach.

Lastly, one specific precondition that is even more vital for populations facing hardship is an effort to integrate and dovetail hospital functions with the other sectors of the health and social welfare system, which is a key factor in guaranteeing health-care quality and continuity. This is what is often missing when the migrant has no GP and uses no other treatment outlets apart from the hospital. This explains the highly pertinent solicitation to develop “a range of alternative options to traditional hospital care” facilitating “a new balance between primary, community and institutional care that is organised around the patient and provides services closer to the community” (Council of Europe, 2006a), as pointed out by another recommendation of the Committee of Ministers.

### *c. The health-care system beyond the hospital*

Seen from inside the hospital, the lack of continuity between hospital and community care is one of the main problems facing people in situations of hardship, particularly migrants who lack access to any social support

network. One pernicious effect of this concern is that hospital stays are longer than is strictly necessary, particularly in the paediatric wards, when medical teams consider that the patient's everyday environment is incompetent, that (s)he will not be supported on discharge and that the treatment will not be properly followed. This representation of families, particularly migrant families, as incompetent or uncaring is often ill-founded, and is just one of the prejudices ignoring, underestimating and under-utilising people's capacities. These discriminatory prejudices also concern proper implementation of treatments, which is necessary if they are to be effective, particularly in cases of chronic illness. Experience in the various departments shows that the quality of the trust built up with the medical team is decisive. Trust can be established where there is mutual esteem and where time is taken to explain, to explain again, to secure mutual understanding, and to pinpoint any reservations, misunderstandings, and the expectations of both the patients and their families. Where the right words are exchanged, treatment ceases to be just an order and becomes an agreement, which is often negotiated, and in such cases the migrants usually comply with their treatment even more carefully than non-immigrant patients.

In order to remedy these disadvantages we need to change the whole concept of the hospital; for instance, "hospitals should not be considered as a set of buildings but as a sum of their functions. Those functions can be delivered in different settings" (Council of Europe, 2006a). This approach raises a preliminary question of principle and institutional culture: should the hospital broaden its mission and assign some of its staff to outside work? Where French public psychiatric services are concerned, for instance, the answer has been in the affirmative. In this field, broadly speaking, each public psychiatric nursing team in France is responsible for an area comprising a population of 70 000. Some of the team work in-house and some outside the hospital. One patient may be treated in different places depending on his/her needs in terms of care or support: hospitals, outpatient departments, day-centres, clubs, homes, etc. The team may visit the patient at home and help not only to solve everyday problems following the treatment, but also to activate social services to deal with problems of resources, housing and food, etc. So it is in fact possible to organise both in-house and outpatient care, managed and co-ordinated by hospital teams open to the outside world.

Where alternatives to hospitalisation are concerned, many French hospitals have created services catering for hospitalisation at home. Under this arrangement, patients with "hospital patient" status are eligible for

hospital-standard treatment at home from a joint team of hospital and non-hospital doctors and nurses. Furthermore, joint GP-hospital treatment networks are emerging, involving hospitals and outside partners, who are often professional members of associations.

Reception centres for people of no fixed abode, which also take in growing numbers of migrants, have been experimenting in provision of "hospital-type beds". This has led to controversy and allegations of a two-speed health-care system. The system, which dispenses with technology and is less costly in terms of staff and money, is aimed at marginalised people suffering from common medical complaints, many of whom refuse to go to hospital. It is a lightweight procedure, which requires no prior administrative processing and preserves the patients' anonymity if they so desire. It is obviously unsuitable for cases of serious illness. The main reservations are that it runs counter to the battle to channel marginalised patients into the normal treatment outlets and discourages the corresponding efforts at adaptation. I have no knowledge of any "home medical care" experiments in the centres that have been housing migrants for decades now, although because such people live in small family-type groups and often look after each other, theoretically there should be no obstacle to such an approach.

One example of an outsourced hospital activity is the Homnibus project run by the Jean Verdier hospital in the Seine-Saint-Denis department. The hospital initially co-operated with an association involved in the prevention of drug addiction and AIDS, and with our Public Health and Social Medicine Department, in setting up a mobile consultation unit to reach out to people who needed medical treatment but did not actively seek it out. An old Paris public transport bus was fitted out for the purpose. It travels around the neighbourhoods and centres housing migrant workers in order to contact individuals who would not otherwise spontaneously approach the hospital for treatment, and provides them with screening services. The team includes doctors, nurses and social workers. The aim is to support patients and help them secure proper medical treatment and social benefits. The bus does not attempt to establish any fixed "clientele", but rather endeavours to build up trust and encourage contacts, catering for people free of charge and anonymously if so desired. It acts as a kind of "relay station". Furthermore, the area served by the hospital bus also comprises a wide range of professional doctors and nurses.

"Mobile hospital consultation" status proved very difficult to secure, and efforts in this direction initially came up against a great deal of resistance. Hospitals are often unable or unwilling to emerge into the outside

world, but their external partners also fear their influence, disguising this concern with ambiguous words. In technical and human terms, it has been particularly difficult to strike a proper balance in the team between doctors and nurses with their hospital background, and the social workers with their experience as street workers, although they all now hold hospital staff status.

### **3. Tailoring a hospital to migrants' needs: the Hôpital Avicenne**

#### *a. An ideal testing ground*

Just like everyone else, migrants are interested in communication and comprehension, even if they are accompanied to hospital by more knowledgeable friends and relatives when they cannot or dare not attend alone. What practical response can be provided to the wide diversity of presumably unmet needs and wishes in order to ensure a friendly reception by and in hospitals, and also to deal with the multiple difficulties pinpointed by administrative officers, social workers, and above all the medical teams themselves? The work of the Hôpital Avicenne provides an ideal environment for analysing such questions and attempting to translate the principles and theoretical guidelines into everyday practice.

The Hôpital Avicenne is the main teaching hospital connected to the Université Paris 13 in the northern Paris suburbs, and its history is unique in the whole Paris region. It was built outside Paris in the 1930s and was originally called the Hôpital Franco-musulman (Franco-Muslim Hospital). It was very modern and well-equipped for the time, and was designed for Muslim patients, especially those suffering from tuberculosis. Many of the staff recruited, including doctors, spoke the North African languages used by the patients. Hospital meals were prepared in accordance with religious prescriptions, long before any legal obligations were introduced on the subject. Prior consideration had been given to the issue of patients dying in the hospital, which had a Muslim cemetery built in the Moorish style, together with accommodation for security and maintenance staff. This cemetery still exists, although it is now administered by the municipality, and many Muslim veterans are buried there. The hospital is no longer "Franco-Muslim" and caters for all, with some 500 beds. It belongs to the Assistance-Publique-Hôpitaux-de-Paris hospital network. There is a large and constantly expanding 24-hour casualty department and a large number of outside consultants provide outpatient care.

This hospital is still deeply marked by its old tradition, and many staff members have spent their whole career within its walls. Many patients and their families come from the former French colonies, and have been joined by people from all over the world who have been forced to migrate by economic difficulties and war. Individuals from all countries worldwide rub shoulders in the hospital's corridors, wards and consultation rooms. People are to be heard asking in different languages for directions to various departments and individual patients' wards, sometimes not knowing the surnames registered by the hospital administration, where these do not correspond to the individuals' usual names in their different communities.

The Hôpital Avicenne was selected to represent France in the European "Migrant Friendly Hospital" (MFH) Project, which was launched in 2003 by the WHO Network of Health Promoting Hospitals, with the financial assistance of the European Commission and the Austrian Government. To this hospital, which is already quite accustomed to taking account of the cultural dimension as a factor for ensuring effective access to health-care services, as well as to our medical faculty and the other surrounding hospitals, this programme provided an opportunity for ground-breaking work. The work covered investigation and analysis of the usual practice of the different staff categories, comparing the services supplied with the needs, expectations and problems of patients and their families, and also the needs, wishes, expectations and problems faced by the hospital departments in securing or improving the attainment of their goals.

In line with the official programme, we set up a steering group led by the Head of the Infectious Diseases Department, Professor Olivier Bouchaud, who is also responsible for tropical and exotic diseases. A whole new methodology had to be gradually developed for identifying the most obvious problems, moving on to the more implicit ones, which are more difficult to grasp and formulate, and then putting forward proposals for improving the reception facilities for migrants and minorities in our hospital. We have selected two of the main lines of work proposed under the "Migrant Friendly Hospital" project for further study, namely, interpretation-communication and team training.<sup>1</sup>

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1. See the "The Amsterdam Declaration Towards Migrant Friendly Hospitals in an ethno-culturally diverse Europe" ([www.mfh-eu.net/public/european\\_recommendations.htm](http://www.mfh-eu.net/public/european_recommendations.htm)).

### *b. Developing interpretation and communication*

Where interpretation is concerned, our hospital, like others in France, uses an outside agency to provide direct and telephone translation services. Apart from its high cost, this system works well. Furthermore, the family and language histories of many hospital staff members enable them to communicate with patients from similar backgrounds to their own. If we want to go beyond this informal role played by staff and exploit their competences properly, they must first of all be identified and then their agreement and that of their superiors secured, so that they can also act as interpreters outside their own departments. Formal arrangements must be made for making them available whenever needed. As is the case for all interpreters, this activity must be supervised with an eye to maximum neutrality on their part, ensuring that their feelings, opinions or possible tension between the patient and the physician do not influence their work. A psychiatric department with long experience of "intercultural psychiatry" is available at the Hôpital Avicenne to train interpreters. Moreover, patients often come forward to interpret for other patients. This extremely useful practice has been widely discussed, leading to some caveats, because it raises problems of confidentiality. It could potentially lead to violations of patients' privacy and of medical secrecy. However, such inter-patient solidarity is very valuable in the everyday life of the hospital.

### *c. Training teams in "cultural competences"*

The opinions, comments and representations of migrant users were addressed through the intermediary of representatives of immigrant associations involved in the hospital, former hospital patients, some suffering from chronic illnesses, and association members. Patients have presented personal statements during three public thematic days, attended by several hundred participants, professionals, patients and also many local people of immigrant origin, acting in an official or informal capacity as mediators, assistants and organisers of local resident networks. The events have also been attended by artists and intellectuals.<sup>2</sup>

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2. The themes of the days, which have proven highly productive, were defined from the angle of mutual research and training and exchanges of competences among our different cultures. They were: the symbolism of blood in different cultures (2003); ageing abroad, including the issues of death at hospital and the repatriation of deceased persons to their native countries (2004); and communication between patients and health-care teams.

We should stress the importance, in terms of general awareness-raising, of the preparatory periods for the thematic days, involving various categories of professionals, association representatives and researchers, particularly social science researchers. These preparations also attract attention and lead to informal discussions in the hospital itself.

*d. Pinpointing the problems as part of an ongoing learning process*

The most difficult and yet most interesting and vital aspect is to pinpoint the problems. This entails shifting one's viewpoints or "visual angles". It necessitates distancing oneself from one's usual approaches, the procedures one has hitherto considered suitable and/or sufficient. When the problems and questions to be resolved have been clarified, set out, explained and sufficiently well grasped by the whole group, solutions can begin to emerge. Professionals, who are quite accustomed to taking the initiative and shouldering responsibilities, are highly inventive in such cases and come up with a wealth of proposed actions and possible or desirable strategies. In conducting the project, care must be taken not to launch immediately into proposed activities before analysing the problems from all the different angles. The risk in rushing ahead in this way is that the professionals may only tackle their own specific problems, drawing on existing analyses and habits which have often failed in the past.

The work of pinpointing all the problem areas took a long time, involving painstaking work by each professional group in the hospital, namely the nurses and matrons, doctors, administrative staff, social workers, religious representatives and the associations working in and around the hospital. Each group was also assisted by outside experts. A specific survey was carried out of reception staff, who are under-trained, and have sometimes been moved to these duties in order to ease the strain on them. Lastly, real change invariably prompts resistance, and institutional resistance can never be overcome with the wave of a wand, or else only as a fleeting illusion of change. The work is long-drawn-out, and when it is finally completed it has to be supported. This, in fact, raises the questions of how to perpetuate this fixed-term European programme and how to extend it beyond the hospitals in the initial network.

#### **4. Deepening the consideration of diversities: effects on “implicit” power relations in the hospital**

##### *a. Changing perspectives*

Does adapting to the needs of migrants, which carry on long after the actual period of hospitalisation, have an impact on power relations in the hospital? I think the answer is yes. Without going so far as to challenge the actual underlying principles of “knowledge-power” relations within the hospital institution and their apportionment among doctors, nursing staff, social workers and managers, integrating the “right to health” concept extends the mission beyond the hospital walls and redistributes some of the internal responsibilities.

While “power at hospital is marked by a dual hierarchy, namely the doctors and management” (D’Halluin, 2007), the whole system is built up for and on the basis of the supremacy of medical treatment. The rationale behind the whole organisational and hierarchical command structure is medical. Social workers, and indeed educational staff, have low-level power, which is unevenly distributed according to the type of pathology or problem and depending on the whims of the different departments. Assigning health objectives for patients after an acute illness or for their future lives with a chronic disorder, especially where they are migrants living alone, necessitates contacts with outside social and medical partners. Co-operation must be established with associations by means of links based on mutual esteem and complementarity. Medical staff have never received the requisite training for such an approach at university or “on the job”. When doctors work with non-medical staff, that is, people with non-medical competences, they must change their attitudes in line with the fact that they are no longer the only ones “in the know”, the sole decision makers. Moreover, no long-term, in-depth work with outside partners is possible in a paternalistic, basically uncivil atmosphere. Civility is not always a familiar concept in hospital culture, which sometimes considers that it is not there to please or seduce and that anyone who is not happy can just leave.

##### *b. “Implicit” power relations*

I would like to highlight a rather sensitive point that simultaneously concerns the hierarchy of social roles and presumptions about the intentions of the hospital, which is generally regarded as a mechanism that operates for the benefit of patients. To many migrants, doctors and the “men in

white coats” are omnipotent, which is how they are seen in their home countries, where many have never been able to afford hospital treatment. “Even if we do not understand them, they know what they are doing; we are hardly even allowed to look at them, ask them questions or express surprise, never mind judge them”. However, we must not forget that in view of their present or past situations, some patients may experience the hospital’s protective, caring function “in reverse”, and not even merely as a kind of forced psychiatric hospitalisation. In such cases the nurses, doctors and managers may be regarded, behind the health-care façade, as threatening, ill-intentioned auxiliaries of a dominant society, which rejects, judges and stigmatises you and only reluctantly provides you with the services you need. And in fact, this psychological standpoint can hamper the efficacy of the treatment, because it can hardly help you if it is administered by the very people who wish you ill.

It is well documented that the determining factors for illness or health, perceptions and prioritisation of health hazards, symptoms and illnesses may vary according to living environment, culture and individual living experience. We might cite the example of the extremely painful experience of living, for several years, without any legal residence permit under the perpetual threat of expulsion. The migrant’s experience of the legal uncertainty/insecurity factor vis-à-vis the police and the whole national territory is unknown or indeed incomprehensible to people in the host society, who have never had to apply for a right of admission or residence: they are from here, their civil status is self-evident, as are the corresponding documents to which they are naturally entitled.

This painful status of poor and/or undocumented migrant is obviously a health hazard that damages the individual’s mental, social and sometimes physical well-being. The harm done to physical health by insecure living conditions, often inadequate nutrition and the fact of having limited or no access to medical care, is compounded by the fear of broaching a health-care system where one is liable to be seen, pointed at and perhaps reported.

### c. *Medical secrecy*

The atmosphere of trust in some of our countries surrounding the culture and legal obligations of medical secrecy and administrative data confidentiality is no universal phenomenon. Some migrants who have fallen ill in their own countries have experienced situations that have nothing to do with respect for secrecy and confidentiality. In some cases, therefore,

patients will imagine that any facts they disclose to the health services will not be covered by secrecy and may be used to their disadvantage. We might note, in this connection, that we have had similar experiences with medical treatment in prison, with some prisoners imagining that talking to the doctor is a means of passing on information, or even requests, to the administration (as it would be in the case of a prison warder or officer) and sometimes expressing surprise that nothing happened after they confided in the medical officer.

This is where identification and gathering of medical data on ethnic minorities, which would be extremely useful in estimating patients' needs and the results of any activities implemented, comes up against ethical problems, which in fact boil down to strictly technical issues. What are the minimum common definitions of a migrant and a migrant family? What data are necessary and appropriate? What difference should there be in the systems for gathering data on migrants in situations of hardship, and on any other marginalised individuals, before and after hospitalisation? A further issue facing the hospital is the vital one of preventing abuse of data gathered on ethnic minorities, with an eye to preventing stigmatisation and therefore guaranteeing their safety.

#### *d. Education for health: a strategy of mutual adaptation*

People responsible for health in western countries encounter major difficulties in preventing and treating latent infectious diseases affecting migrants and migrant groups, often in large numbers. Beyond the usual difficulties (to do with epidemiology and access to health care and welfare provisions), health project designers must also take account of the cultural specificities of migrant populations to enable them to appropriate a new health message.

More often than not, the traditional facilities used in education for health, which are based on the biomedical approach, are unsuited for action with communities which have different health cultures, and therefore even more so for immigrant populations. If we wish to improve their health, in the western sense, and if we really want to change knowledge, opinions, beliefs, practices, attitudes and behaviours contributing to people's state of health, we must get across messages that use concepts and values specific to the target population. We could, for instance, use analogies, fables and parables combining images from the cultures of origin with the knowledge which we would like to get across.

This might be summarised in a number of general recommendations. All health operators should endeavour to tailor their means of action to the cultures of their target populations in order to enable both the professionals involved and the target group to identify with it, to communicate and to support the action. Each epidemiological situation has different human components which require specific health communication facilities: a pluridisciplinary approach, combining public health and the social sciences, facilitates analysis of all the components and the creation of optimum communication facilities. These facilities must both draw on and reinforce the “central positive values” of the target group’s culture while remaining relevant and acceptable to the whole target society. Migrants seem to find it easier to appropriate messages from the host culture when they have found their proper place within their own system of values.

## **Conclusion**

“My primary concern will be to restore, preserve or promote health in all its physical, mental, individual and social dimensions. I will respect all persons, their autonomy and wishes, without distinction according to their situation or convictions. I will act to protect them where they are weakened, vulnerable or threatened in their integrity or dignity. Even under coercion I shall refrain from using my knowledge against the laws of humanity. I shall inform patients of planned decisions, the reasons for them and their consequences” (French Medical Association, 1996). This (adapted) excerpt from the Hippocratic Oath, by which future medical doctors publicly commit themselves to a medical ethical code, comprises most of the considerations set out here in terms of universal (yet differentiated) access to health. It is the very foundation of the “good intentions” expressed by all hospitals today.

Every day these good intentions are put to the test by the facts and difficulties of interpersonal relations in matters of illness, accidents, poverty and death. Migrant users provide only one example of the immense range of people and needs currently dealt with by hospitals. Nevertheless, unlike many other patients, if only for reasons of language, diet, religious customs, lack of formal education or poverty, it is often migrant patients who force us to think and act differently in order to ensure that the hospital can uphold its ideals and respect its pledge. This requires us to verbalise the implicit “good intentions”, which are often contradicted by habits and events.

These idealised “good intentions”, which are often ambitious, sometimes transcend not only the knowledge of hospital staff but also their capacity to stand firm when their image of themselves and their routine, which are their natural defences enabling them to carry on with their work, are subjected to excessive strain. But we must not see “intercultural training” as yet another technical utility for tackling various highly complex cases. If we are to provide better hospital treatment for migrants, there are things we must learn, procedures we must introduce and new modes of co-operation we must develop. However, we must also accept the risk of entering, with curiosity and empathy, into the world and subjectivity of those who are different from ourselves.

This experience has certain parallels with world travel. Western travellers are often astounded to discover that even in the poorest countries people can think, live, be parents, children and old people, and that their cultures evolve. When they return home, they no longer see immigrants in the same way: the latter have suddenly become individuals. In their countries of destination, immigrants are often seen as moving postcard pictures, surrounded by a rather unsettling silence. As Amadou Sow, an African social worker in France, has so aptly put it, “all cultures, including African ones, are necessarily evolving. Our identities are not freeze-framed, even under the influence of immigration. So they are already on the move before being transplanted into France. [ ... ] Most of us come from a rural environment. We all have a farming heritage in which our cultural values are rooted (in terms of economics and social organisation). The remains of this heritage make for complex and contradictory relations with the technological culture of western society (distance, fascination, ignorance and negation)” (Sow, 1999). In conclusion, this is the spirit in which we might improve our facilities for receiving and treating these men and women who come to us from other horizons.

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## **PART III – MIGRANTS, DIVERSITY AND CHANGES IN FIRMS**

### **I. The attitude of companies to migrant workers and their “differences”: challenging the current trends towards irresponsibility**

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#### **1. The limits of a voluntary approach**

For some fifteen years now European institutions, beginning with the European Commission, have had the question of the social responsibility of companies on their agenda. Thus, both multinational corporations and firms of all other sizes and shapes have been called upon to take part in the initiatives against social exclusion and to make new commitments on matters of equal opportunity and the “valorisation of diversity”. Of the most significant stimuli specifically regarding immigrant populations, it suffices to recall here the EU directives on racial equality (2000/43/EC) and employment equality (2000/78/EC), which in some sense “bound” the member states to strengthen their legislation against employment discrimination in general, and against racial discrimination in particular. I recall these directives, among many others, because they seem to give “the principle of equal treatment between persons irrespective of racial or ethnic origin” a force that was in some sense binding. In fact, they made reference to “prohibition of discrimination”, to “legal” and “judicial” protection against discrimination, to specific “judicial competent bodies” charged with “effective implementation of the principle of equality”, to “effective, proportionate and dissuasive sanctions”, and so on.

Well, how much real progress has been made? How far have companies gone in taking “social responsibility” in general, and in taking it towards migrant workers in particular? The authorities in Brussels take up these questions in a recent European Commission communication (European Commission, 2006) and, reading between the lines, we have to say that their answer is disappointing. Although we do read of “much progress [that] has been made since the Lisbon Council”, no evidence – no concrete

indicator – of such progress is provided. On the contrary, what is evident is a certain regression in the attitude of the Commission itself where companies are concerned. The key term of this text is voluntary: “voluntary business behaviour”, integration of “social concerns” by companies on “a voluntary basis”, “voluntary business approach” “voluntary commitment” of European business to the European Alliance for Corporate Social Responsibility proposed by the Commission, “voluntary business contribution” to the goals of the Lisbon strategy. And to dispel any possible doubt, it is repeated a number of times that the initiative proposed by the Commission is in no way to be considered as “a legal instrument”, as something even in the least bit binding. It is, quite simply, an invitation, a “call” to companies to “publicly demonstrate” their commitment to this “political”, not legal, not binding, process. In short, five years after the Green Paper (European Commission, 2001), the entire stimulus to the social responsibility of companies appears as a simple recommendation, and even something less: an invitation, an appeal, an encouragement, an entreaty, almost a prayer to make an effort to better “reconcile economic, social and environmental ambitions”. The term “prayer” may seem a bit much. But an invitation to dialogue between business and other partners (trade unions, etc.) which limits itself to noting, without objection, that companies have no intention of committing themselves to giving any information on their “social” practices – which limits itself to noting, without objection, that they are firmly opposed to any sort of regulation in this area – well, what is this if not a prayer? And the Commission’s commitment not to make public the list of firms that participate in the dialogue and in the Alliance – well, isn’t this the same as saying to companies: “We ask you to do this and that, but if you don’t, rest assured that it makes no difference”?

This submissive attitude of the European Commission records and reflects the minimal willingness of firms to take the question of “social responsibility” seriously, in a genuine and committed way, and especially as far as immigrant workers are concerned. In Europe today, as in the past, firms are increasingly avid to recruit immigrant workers because the labour of immigrant men and women is low cost and highly flexible. In short, firms recruit immigrants in order to increase their profitability. In nearly all cases there is no other social reason for their choice, be it in countries of “old” or of “new” immigration. And this is all the more evident if we recall that today, unlike in the post-war reconstruction period, there is no scarcity of autochthonous labour power, but rather a superabundance: the current unemployment indices are decidedly higher than those of the 1950s and 1960s. In this context, the recourse to immigrant labour power is, for

companies, one more lever for controlling the general level of wages and guarantees and driving it downward.

## 2. Irresponsible companies: a European survey

In order to illustrate this thesis, I shall refer to the findings of a recent European study expressly dedicated to this question,<sup>1</sup> beginning with the public transport sector and with three “old” immigration countries, the United Kingdom, France and Belgium. Given the fact that this is a – so to speak – publicly managed sector, and that these countries have certainly had plenty of time to implement equal opportunity policies in favour of immigrant workers, we might be led to expect a situation that is, at least in part, different from and above the average. Alas, the actual situation disappoints our expectation.

In the London bus industry there has traditionally been a significant number of “black and ethnic minority staff employed”. This number increased during the privatisation years, and literally exploded between 2001 and 2003, rising from 39.6 to 48.2% of the total staff. Why this surge? Quite simply because these are jobs with relatively low wages and longer-than-average hours (46.7 hours per week). What is more, these workers have practically no vertical mobility – no access whatsoever to management positions and practically none to intermediate-level jobs either – and are thus subject to “rigid vertical job segregation”. This job segregation of black and ethnic minority employees puts them into continual contact with the public and exposes them quite often to racist actions, words and behaviour, which the (white) company management usually downgrades to “merely over-the-top misbehaviour”. Company savings are evident, then, in a number of ways: hiring black and ethnic minority workers, they have at their disposal a workforce without career advancement, highly flexible, willing – out of necessity – to accept low wages and to work longer hours, and also willing, for the same reason, to put up (more than

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1. The project is devoted to “racial and ethnic minorities, immigration and the role of trade unions in combating discrimination and xenophobia, in encouraging participation and in securing social inclusion and citizenship” (acronym: RITU). This research project, which began in 2003 and ended in 2005, was co-ordinated by Professor Steve Jefferys of the Working Lives Research Institute of London Metropolitan University; the other partners were Ca’ Foscari University of Venice, the Université Libre de Bruxelles, the International Center for Minority Studies of the University of Sofia, and the Universities of Paris VII and Nice. The author of this article was director of the Italian research group.

the average worker) with the racial prejudices and incivility of an increasingly aggressive public (Working Lives Research Institute, 2004).

The Brussels Société des Transports Intercommunaux has a lower percentage of immigrant and/or of non-European origin employees, approximately 20% of the workforce; but, here again, nearly all of them are drivers or other categories of agents, occupying the lowest levels of the company hierarchy. Only 0.5% of these workers have had access to management positions, because in this Société promotions for non-Belgian nationals, even if of European origin, are practically out of the question. Here too, the sector can boast some of the lowest wages and heaviest working conditions in Belgium. In this company a few years ago there was a full-fledged scandal (the "Sixx case"), sparked by the racist treatment of some Moroccan workers by two high company officials, who harassed and humiliated them. These two officials were later acquitted by the courts, and it is striking to discover that in this company, the biggest employer in the Brussels-Capital region – a company that is "under public law" but whose "staff is ruled by private law" – nothing has substantially changed since the scandal. We still find discrimination against immigrant workers or workers of foreign origin in terms of promotion and professional qualification, just as we find veiled in silence most of the episodes of humiliation, denigration, insinuation, racist insults, and even of intrusion upon the "family intimacy" of coloured employees through questions about their wives and children – in some cases at the tacit request of trade-union delegates, who are often inclined to minimise racist episodes and their meaning. In this major Belgian company, then, not only do we find no sense of social responsibility but, on the contrary, we find management tolerance and inertia with regard to discriminatory – if not racist – behaviour toward immigrant workers or naturalised workers of non-European origin (Université Libre de Bruxelles, 2004).

In the French urban public transport sector the situation is partially different. In this case we note the initiative taken in 1997-98 by the RAPT (Régie Autonome de Transports Parisiens), the largest French urban transport company, by the SNCF (Société Nationale des Chemins de Fer Français) and by the GART (Groupement des Autorités Organisatrices de Transport) with the "grands frères" ("big brothers") temporary hiring programme for young boys, mainly of foreign origin, from working-class neighbourhoods, "in order to dissuade young people from the same social and cultural background from making trouble and breaking the rules, and to teach the troublemakers politeness or even public spiritedness" (Macé, 1997). But the programme had a number of dubious aspects, despite its

success (in numerical terms, at any rate), and despite the fact that the hiring of a great number of young people of colour was seen by many – including the first-, second- and third-generation immigrants themselves – as nothing less than a turning-point in company culture. First of all, at the beginning these young people were given surveillance jobs (“big brothers”) almost exclusively, often with very casual job contracts and in subcontractor firms. But even when they were given the chance to work as engine drivers, their position was still differentiated for the worse. They were subjected to heavy surveillance by the supervisory staff, most were assigned to the most troublesome and out-of-the-way districts, and they received the lowest pay and had the worst working conditions (the drivers too, in these firms, especially if coloured, have practically no possibility of career advancement). What is more, the constant emphasis on the exceptional character of the hiring programme put these young workers in the position of having to give more than the others while having to make less mistakes than the others. As a result, within these companies the distinction and hierarchisation between the “premier league” French staff’s children and the *jeunes des quartiers*, immigrants or children of immigrants, remained sharp and visible to the naked eye, as in any dualistic labour market worthy of the name (URMIS, 2004).

In the health services sector the situation is no brighter – not even in countries such as the United Kingdom and France where the presence of immigrant personnel, however limited, is not such a recent phenomenon. Much of this is due to privatisation, which has increasingly shifted the focus to management and the criteria of profitability, on the well-established United States model of for-profit hospitals quoted on Wall Street. But government decisions to cut the costs of the national health systems established since the Second World War have been no less important, even in the cases where, formally, the services have remained public or semi-public. This cost cutting has been implemented not only through outsourcing but also through ever greater recourse to the labour of immigrant women and of eastern European, South African, Filipino and Indian immigrants, both in logistical (catering, cleaning, etc.) and in hospital services, in either case almost always hired by subcontracting firms or co-operatives. In this way a two-tiered system is being consolidated, in which the employees of the subcontracting firms – mostly blacks or new immigrants – have to submit to working conditions worse than those of the steadily employed national workers. In Italy, this dualism of the health service labour market is strongly protected, not only by practice but by the laws themselves, since the legislation in force allows foreign nationals no access to public employment and to the public health sector. Since

there is, however, an acute scarcity of nurses, this professional category has been exempted from the immigration quotas. But the employment contract specifically prescribed for foreign nurses is a temporary one, with a term of no more than two years and renewable only once, thus ensuring that public and private health services personnel are in a cycle of continual turnover (and therefore excluded from vertical mobility as well as from automatic pay rises). They are also therefore subject to blackmail because of the ways (often reminiscent of the Mafia) in which they are recruited.

Adding, for good measure, the difficulty of these skilled workers in gaining recognition of educational qualifications attained abroad, leading to their assignment to the least skilled jobs, at times as if they were common labourers, it is truly difficult to see how this sector can claim to embrace the principle of equal treatment for national and immigrant workers, and to value the cultural or intercultural competences of the latter. In many ways, the situation is similar in France where, in the Assistance Publique des Hopitaux de Paris, one can find many forms of discrimination against the coloured non-medical staff, mostly composed of West Indian women, both in the hiring phase and once they are actually working. Unlike Italy and France, the United Kingdom has legislation – the Race Relations (Amendment) Act of 2000 – that commits public institutions to take measures to eliminate racial discrimination and to favour good relations between populations belonging to different races and nationalities. Furthermore, in the UK, we find a fair degree of unionisation of black and immigrant workers, and a series of initiatives by the Unison trade union to combat racism and discrimination. Nevertheless, coloured male and female nurses continue to be systematically discriminated against in terms of mobility and promotion, and practically never rise to the rank of specialised nurses, sisters, matrons and – it goes without saying – managers. To say nothing of the “great degree of ambivalence” with which British health service institutions treat the – by no means rare – episodes of violence and racial discrimination perpetrated by the public (Working Lives Research Institute, 2005; IRES, 2005; University of Venice, 2005a).

Shifting our attention from the services sector to that of traditional large-scale industry, the panorama is no better. Quite the contrary. Let me give just two examples, both concerning Italy. At Fincantieri, a state-controlled enterprise that is the largest builder of luxury cruise ships in the world, discrimination against immigrant workers is, so to speak, structural. A minority of the employees, nearly 100% of whom are workers and clerks from northern Italy, are directly employed by the company; the majority

– 100% of whom are immigrants or workers from southern Italy – are employed by a host of contracting and subcontracting firms, some of which regulate the relationships with their workers on the basis of the legislation of their home countries (always worse with respect to Italian legislation). Different job contracts, wages, production bonuses, hours, safety regulations, etc. – the two “worlds”, the two “yards”, present within a single shipyard are different in every way. And if, on the one hand, workers at the subcontracting firms aim or aspire to have treatment equal to that of the workers directly employed by Fincantieri, on the other hand, the company aims to exploit the casualisation and (forced) hyperflexibility of the subcontracting employees in order slowly to erode the “protected” condition of their own workers (University of Venice, 2005b). Also in the case of Elettrolux-Zanussi at Susegana (near Treviso), a large metalworking enterprise, we can speak of a division of labour on racial lines, with the immigrant workers (25% of the total staff) unfailingly destined to occupy the lowest roles and perform the heaviest tasks, with no possibility of career advancement. Here a decisive role in this racial selection is played by the company’s decision to hire, for an initial period, only with a temporary employment contract, and later – possibly – to stipulate a first permanent contract on the basis of the so-called “entry wage” (around € 800 a month). The second pillar of this totally discriminatory use of the workforce consists in assigning immigrants to the departments with the heaviest and most harmful tasks. The third is represented by the almost total lack of vertical mobility: there are no department foremen or even shift foremen of foreign origin; very few immigrants are qualified as specialised workers. And, paradoxically, the only time the company accepted an immigrant demand, with the “socially responsible” decision to allow them to accumulate their vacation time, heated protests came from a part of the FIOM-CGIL (and from its left wing to boot), clearly showing that even the trade unions have serious flaws in this field (University of Venice, 2004b).

Our review could continue, but wherever we turn we will encounter the “fatal attraction” that enterprises, both large and small, feel for irresponsibility, their lack of respect for the abilities, skills, aspirations and rights of migrant workers, and their almost total disregard for institutional demands to show their “social responsibility”. This “fatal attraction”, this “rise of the irresponsible enterprise”, has been ascribed by some scholars, either wholly or in part to the overwhelming success of share capitalism, exclusively intent on driving up the value of companies on the stock exchange (Gallino, 2005; Mitchell, 2001).

### 3. Is “diversity management” taken seriously?

One may object that this is a summary judgment, because a number of large, and also medium-sized firms have set out on a very different path, taking “diversity management” seriously. Well, let us examine a couple of them.

The Ford Motor Company in Cologne, which presents diversity as nothing less than the “cornerstone” of the company, defines it as “respect and appreciation for every employee, regardless of nationality, religion, sexual orientation or the social group to which he or she belongs” (Ford-Werke AG, 2002). The emphasis is generically placed on each individual and on his or her capabilities and qualities: “diversity means variety, and variety requires individuality” since “everyone is unique”. But this is an extremely general principle that, to be frank, does not say much. Indeed, it says practically nothing about the essentially social and collective condition which is the condition of immigrant workers, and which, in general, is discriminatory per se, for fundamental reasons that are unrelated to single individual immigrants and their specific, unique, capabilities and qualities.<sup>2</sup> And in fact, if we leaf through the propagandistic presentation of the actions undertaken by this corporation and by the Diversity Council Ford of Germany, founded in 1996 to embody its choice of diversity, we can also find some useful initiatives: the “Ford Panz”, “the company kindergarten that provides emergency daycare”; significant campaigns in defence of AIDS sufferers; campaigns to promote acceptance of and respect for gays and lesbians; provision of information on the technical, engineering or managerial capabilities of women or on the experience of senior workers. But with regard to the men and women of 57 different nationalities working for the company, we find very little indeed. The activity defined as “Turkish-Cologne co-operation” boils down to an organisation for recreational activities, language courses (German), and a certain number of books in Turkish in the factory library, while the mission of the Turkish Resource Group appears, if not evanescent, at any rate designed more for the accreditation of this company as an “employer of choice” in Germany and in Turkey, than for tangibly combating racial discrimination, even for the Turkish workers it employs (to say nothing of the other 56 nationalities). We are told that “whilst the first Turkish

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2. At Hewlett-Packard too, to mention another example of a US enterprise operating in Europe, and one long “devoted” to diversity management, the emphasis is on women, disabilities and age, with the express purpose of “attracting top talents”; little or nothing is said about migrant workers.

employees were almost exclusively employed in manufacturing, Turkish employees are now found in every part of the company” – but we are told absolutely nothing about the tasks, departments, qualifications, career advancement, or institutional defence against racism and Islamophobia of these employees.

IKEA, the industrial-commercial giant of the “politically correct”, appears to be a little more convinced of the social significance of diversity management policy. But as we read IKEA’s self-presentation and the information available on the company, we have some serious doubts as to the real contents and real purposes of this policy. Never mind (in a manner of speaking) this absolutely fundamental fact: 50% of IKEA’s production takes place in Asian and eastern European countries characterised by low or extremely low wages. Never mind the incident at IKEA in France in 1999, when top management issued a public invitation to its branches not to hire coloured personnel. Never mind the recurring tension with the trade unions on questions of employment relationships and of authoritarian and arbitrary managerial orders, particularly regarding hours, with immigrant workers often the first to bear the brunt. Never mind the criticism by NGOs regarding IKEA’s use of child labour. Never mind (again, in a manner of speaking!) all this. Nevertheless, it is difficult not to think that the attention IKEA pays to the multicultural character of western societies and to immigration just might have more to do with the promotion of company sales than with any other factor or philosophical consideration (Mapelli and Scarpaleggia, 2004; Kling and Goteman, 2003; Caferri, 2003).

For that matter, I have to say that the findings of the recent (2005) European Commission survey on the “good practices” of diversity adopted by companies leaves little room for facile optimism. Of the 3 000 questionnaires distributed only 798 (26.6%) were returned. Of these 798 companies, 50.2% declare they have implemented no diversity policies, and only 20.3% say that they have done so with a certain regularity. A fair number of the companies that state they have implemented or begun to implement such policies declare they have done so only out of “legal compliance”, while a substantial majority (two thirds) of them admit they have not organised “regular monitoring and evaluation of the initiatives to measure their results and impact”. This, I must say, is a clear measure of their lack of interest in the matter, since companies have a habit of measuring what is important to them with extreme, even maniacal precision (we recall Ohno’s famous admission about his obsession with the elimination of dead time). What is more, about one fifth of the companies that did give diversity a chance, then rejected it, maintaining that it was of no

real benefit to the firm. Going into specifics, we discover that only 3% of the firms that responded (24 out of 798) took “racial or ethnic origin” as their target, while a greater number of firms addressed other targets, such as gender, disability and age. The analysis, then, of a certain number of case studies further reduces our estimate of the positive attention paid to the “cultural and multicultural competences” of immigrants, since of the 19 firms monitored,<sup>3</sup> only five or six declare a concern with the “ethnic diversity” of their personnel. But the recruitment of coloured workers in and for itself has no great meaning: it would be far more important to know what professional positions are given to them, what tasks, what shifts, what language is spoken with them, what real respect is shown for their needs regarding food, language, vacations, religion, what tolerance is shown to those who offend or discriminate against them, and so forth. But the survey has nothing to say about this. The least we can say, then, is that if, in general “the business case for investment in workforce diversity is embryonic” and “fragmented” (European Commission, 2003), then as regards immigrant workers such investment appears to be at a pre-embryonic stage.

It is not by chance that, in the United Kingdom, the country in which companies have given the subject its greatest weight, trade union organisations, as well as those who in recent decades have worked to promote equal opportunity through anti-discrimination policies and affirmative action, view diversity management with a certain suspicion, if not with out-and-out aversion. They consider it to be a sort of “cover-up” or “window dressing”, “a ‘softer term’ which detracted from the equality agenda”, an instrument to weaken rather than strengthen previous initiatives and policies against racism and ethnic discrimination. It is also seen as an instrument to implement “an organisational policy with business motives” regarding cost cutting, competitiveness, and enlargement of the clientele to people of many colours and nationalities (“open minds, open markets” is the UBS diversity slogan), thereby clothing such policy in egalitarian social terms while doing nothing to attack the structural roots of inequality, and of racial and national inequality in particular (Wrench, 2004; Wrench, 2005; Kersten, 2000.)<sup>4</sup>

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3. The firms are: Adecco, Air Products, Bertelsmann, British Telecommunications, Coco-Mat, Danfoss, Deutsche Bank, Deutsche Telekom, Dublin Bus, Ford, Goldman Sachs, Grupo Vips, IBM, Manchan, Randstad Belgium, Royal Dutch Shell, Tesco, TNT, Volvo Group.

4. By contrast, in defence of diversity management, see Kandola and Fullerton, 1998; Prasad et al., 2006.

The average behaviour of European companies, even of that very small minority that declare they have taken – with conviction – the path of diversity management, clearly fails to meet the standards set by the Council of Europe Methodological Guide to the Concerted Development of Social Cohesion Indicators. This failure begins with the indicators relative to the satisfaction of migrants' basic needs, even just those regarding the employment/income relation, the recognition of qualifications and competences, pay equality (or inequality), access to the civil service, the unemployment rate of immigrants with higher education qualifications, the sectors in which they find jobs, poverty rates, or even just the availability of information and training courses in several languages. But then there are other questions that need to be measured, such as the extent to which the dignity of immigrants – here a social category of enormous objective and subjective importance for immigrant peoples and individuals – is actually preserved in the integration process. Questions of whether and to what extent immigrants are victims of crime and of physical and moral aggression; whether and to what extent their cultural and religious diversity is respected, in school and out; whether and to what extent differential treatment in school leads young immigrants or the children of immigrants to social marginalisation and even delinquency; whether and to what extent immigrants are in fact discriminated against in the justice and penal system. Thus, the company and social conditions that favour or hinder the development of the personal and family autonomy of immigrants need to be examined, along with another question of great importance – the spaces “guaranteed” to immigrants that allow them to participate fully in the public life of their host society. If we examine such questions as these, then below-standard marks will have to be given, not only to companies, but also to national institutions.

#### **4. Conditions and effects of corporate irresponsibility**

If European companies – once again, on the model of what they see in the United States – are asserting not “social responsibility” but rather “private irresponsibility” especially with regard to social and racial inequality, which they exploit – literally – for their own profit, then we have to wonder whether there are systemic and political conditions that favour, or, at least legitimate, such a trend. I believe that these conditions are to be found first of all in the security-oriented migration policies that have been progressively spreading throughout Europe since the Schengen Agreement. Government policies are certainly not the fundamental cause of the international migrations towards Europe and the wealthy nations.

Worldwide inequalities of economic development, the growing aspirations of coloured populations, European companies' need for competitiveness, as well as the need of European middle-class families to reduce their expenses (in care-giving activities) objectively carry far greater weight. Nevertheless, it is a fact that for a good fifteen years now immigration has been presented, and regulated, as a "danger" – a danger for our security, our identity, our health, our jobs, our religion, and for as many other things as one can possibly imagine. It is a fact that immigrants have increasingly become the object of measures of control, of police action, of repression, of expulsion – especially immigrants of Arab-Islamic origin after 11 September 2001. It is a fact that a piece of highly restrictive legislation such as the Italian "Bossi-Fini Law" has had a great many admirers all over Europe, while the only measures showing signs of openness – the Spanish *Ley de extranjería* No. 4 of 2000 and the 1999 German law on citizenship – were immediately reversed or attacked.

Such facts have most certainly not spurred companies in the right direction. On the contrary, this situation has directly or indirectly put at their disposal immigrant workers who are more deprived of guarantees than before, more ghettoised and criminalised than before, and therefore more subject to blackmail, more willing to accept low wages and "flexibility" of all kinds, regardless of their real qualifications and regardless of their human aspirations. Immigrant workers have been particularly penalised by the institutionalisation of "illegality" – irregularity – that has been the inevitable effect of the new legislation, and has involved not only the *sans papiers*, but the entire world of immigration (Basso and Perocco, 2005; EUMC, 2002; University of Venice, 2004a). Such penalisation acts at the juridical and material level and also at the symbolic level (think of compulsory finger-printing which, in the United Kingdom, has been extended to 5-year-old children, if they are the children of asylum seekers (Doward, 2006)): with some nationalities harder hit than others by a "national and racial selection" that, ultimately, is damaging for all immigrant nationalities, "privileged" neo-EU nationals included (think of the "Polish plumber" in France, or the treatment that the United Kingdom and other European countries have reserved for Bulgarian and Romanian immigrants).

It is difficult to reconstruct with certainty the recent genealogy of the restrictive, repressive and selective line that migration policies have taken, even if Enoch Powell and Schwarzenbach, the Swiss xenophobe, may be considered pioneers. But whatever the most correct genealogy may be, it is evident that this trend is involving all the counties of Europe one after the other, without many distinctions between old and new receiving

countries. The main difference between them, which has made the old receiving countries (the UK, France, the Netherlands) the scenes of more acute interracial conflicts, is the presence there of a second and third generation of migrant workers composed of citizens who are the children and grandchildren of immigrants, but who, from the moment they start looking for work, and then in the workplace itself, come to realise that they are citizens “like the others” only on paper (see, for example, the study on the condition of workers at the Peugeot Sochaux-Montbéliard factory (Beaud and Pialoux, 1999)). Not to mention the young people who are, for the most part, permanently excluded from a regular job, as is the case in the Paris *banlieues* or in the small, or not so small, immigrant ghettos that are springing up in our metropolitan areas.

Although exact, scientific measurement of these processes of discrimination and social exclusion is not as frequent as one may wish, there is no lack of data if we actually look for it. Even in a country with not very reliable statistics such as Italy, we now know that immigrant workers are already subject to discrimination in the phase of looking for and access to work; that in industry there is a mean hourly wage differential between national and immigrant workers that ranges from 8-37%; that in all sectors of activity, the heaviest and least-skilled work is “reserved” for the immigrant workers; that the immigrants’ official rate of industrial accidents is double that of the nationals; that there is a particularly high concentration of immigrant workers in the production sectors with the highest risks to life and health (construction and agriculture) and the longest hours (care-givers and domestics); that the phenomenon of irregular labour is far more widespread among immigrants than nationals, with some 80% of immigrant agricultural workers in southern Italy undocumented;<sup>5</sup> that immigrants are often forced to pay their employers to present their regularisation applications – and the list goes on and on (ISTAT, 2002; Caritas/Migrantes, 2004; Chiaretti, 2005; University

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5. Prefect Pansa, one of the highest-ranking officials at the Ministry of the Interior and in charge, in this ministry, of immigration policies, declared, without mincing words: “The national production system often prefers ‘illegals’ (*clandestine*): [they are] less expensive and more flexible workers. Today we begin to have regular immigrants who become unemployed, while *the ‘illegals’ are nearly always employed* (author’s italics). Indeed, ‘illegality’ (*clandestinità*) or the possession of a residence permit for surreptitious work purposes are preferential requisites for access to a world of work that prefers to hire without contracts and without guarantees” (Pansa, 2006: 101). It is estimated, for example, that at least 1 out of 4 care-givers is permanently “illegal” because s/he is in the hands of the various rackets that control this type of work.

of Venice, 2006). Agriculture is unquestionably one of the production sectors with the harshest conditions for migrant workers. Recent, courageous studies have lifted the veil on employment relationships in this sector and, especially in the south, a fully-fledged “inferno” has come to light, with “slave” conditions on and off the job and disquieting criminal phenomena such as the disappearance, in six years, in Tavoliere di Puglia alone, of 119 Polish farm labourers (Medici senza frontiere, 2005; Gatti, 2006; Foschini and Fleuteri, 2006).

The European Trade Union Confederation attempted to survey the immigration phenomenon in both the old and the new EU member states, with a study (alas, in no great depth) focusing on trade unions. It showed that “the overwhelming majority of confederations recognise that recent migrants and their descendants face particular problems in the labour market”, “with higher levels of unemployment being identified most frequently, followed by lower pay and slower promotion. For women, lower pay was the problem most commonly reported”. No surprises here; but it is striking that, at times, in addition to the usual institutional discrimination, we also find trade union discrimination, as is the case in Austria, where it is impossible for immigrants to become union officials, or in Spain, where “regularity” is the condition for such access – forgetting that immigrants certainly do not choose irregularity but are subjected to it (ETUC, 2003).

It is this overall situation of enduring, or growing, inequality between European and immigrant workers, and of frequent mistrust between national and migrant populations – indeed, we find forms of “popular” racism that are often highly aggressive – that explains the failure of the Schroeder government’s public campaign a few years ago to recruit 20-30 000 high-level Indian engineers and informatics technicians, in an effort to bolster the quality of German technical development and to curb the outsourcing of German companies to China and eastern Europe. Not many Indians actually made it to Germany, but the assault in Dresden on two Indian engineers by a band of neo-Nazis was sufficient to “convince” the few who had accepted the German Government’s invitation to pack their bags and return home. This failure is stark evidence of how difficult it is to implement integration policies strictly limited to single professions and/or single nationalities, when the general context is moving in a completely different direction.

## 5. Looking for alternatives

Is it possible to combat and, eventually, reverse this trend? I believe that it is. To do so, the first fundamental factor is the self-activation of immigrant workers and immigrant populations. It is curious that the literature on immigration in Europe has paid so little attention to this phenomenon because, in fact, it is decidedly widespread. To a degree, immigrant self-activation develops on different terrain in countries of old rather than new immigration. In the latter it is inevitable that immigrants spend a substantial part of such activity attempting to give greater regularity and stability to their position; almost inevitably, everything that regards immigrants "as immigrants" comes first, from residence permits to the search for first employment to housing. But as soon as this "regularisation-stabilisation" has been attained, and in many cases even before this, one finds a growing activation of immigrants as workers, both in the workplace and in trade-union organisations. In Italy, for example, in just a few years, more than 500 000 immigrants have joined unions, thousands of them have become delegates, and we are beginning to see local officials and officers who are non-Italians. Of course, this process has not dissolved at one stroke the entire mechanism of the discrimination that immigrant men and women suffer in the workplace (and in their work in private homes), in terms of wages, hours, qualifications, tasks, safety measures, food, information in their own languages, their relationship with the company hierarchy and with fellow workers, etc. But in all these fields the self-activation of immigrants represents an essential preliminary condition for changing the spontaneous behaviour of companies, of families and of fellow workers.

The relationship between immigrant and national workers is, indeed, a second important factor of change. That this relationship should be one of solidarity can by no means be taken for granted. Rather, for the national workers, the immigrants are "dangerous competitors" whose presence on the labour market drives down both wages and contractual provisions and guarantees. Thus, also in the workplace, also within the trade unions, discriminatory and/or racist behaviour and attitudes toward immigrants on the part of other (native) workers is all too common. But working together day after day, sharing the fatigue, the risks, the malaise, the problems, with the professional but also the human socialisation that this creates and, then, with the immigrants' reaction to the abuses and the processes of inferiorisation that afflict them – all this is now giving rise to a (still very delicate) fabric of solidarity between natives and immigrants, which is opening new areas for labour demands and negotiations.

This process is not static. In fact if, in some nations of recent immigration, such as Italy or Greece, it is at the *statu nascenti*, in others, of more established immigration, such as France or the Netherlands, it risks being traumatically called once again into question. This is also because in no European trade union do we find a coherent line of action (and training of its members) that focuses on real equality between natives and immigrants. For the solidarity, the unity, between the native and the immigrant worker to progress, it is vital that both workers realise that the world of immigrant labour is not a separate world from that of the natives; that, indeed, in the workplace, there is not a single problem that affects the immigrants without at the same time, at least indirectly, affecting the nationals. At bottom, the *sans papiers* – the weakest and most vulnerable figure in the entire world of immigration – is nothing other than the (extreme) prototype of the casualised worker, who more and more frequently today, has white skin and European citizenship. Therefore calling into question the condition of the *sans papiers* means, at bottom, calling into question the entire – company and government – policy of the casualisation of labour, and concerns both immigrant and national workers. This connection has, up to now, been better understood by the immigrants than by the nationals, but in several European countries I believe that the native workers, too, are beginning to gain such awareness.

In parallel to this process, in a number of spheres of civil society, in some religious spheres (both Christian and Islamic), in some associations of jurists, in a select number of cultural and artistic initiatives, and in just a few educational sectors, we can detect a stimulus in the direction of a real, true, full reciprocal integration between immigrants and natives. Yes, it is not much; but it is just enough to affirm that on the European public scene there is not only the trend of companies to use the immigrant workforce as low-cost and highly flexible labour power – not only the robust trend toward restrictive and repressive policies for immigrants. There is also a social, trade union, cultural and, broadly speaking, political counter-trend that, for the moment, is essentially a grass-roots phenomenon. Thanks to this counter-trend, the defence and affirmation of the dignity of immigrants, the satisfaction of their basic needs, the development of their individual and family autonomy, support for the *sans papiers*, actions of denouncing and combating racism and xenophobia, and the full participation of immigrants in organisations committed to the defence of their rights and interests, in trade unions, in political parties, in public communication, etc. are not just nice things to talk about on holidays and special occasions.

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## **II. How the business sector contributes to migrant welfare: Principles, strategies and tools for a responsible “diversity” policy**

*Denis Stokkink, “Pour la Solidarité”, Brussels (Belgium)*

### **Introduction**

The thrust of the extensive action taken to ensure fair access to the labour market for immigrants in destination countries reflects the crucial role played by the business sector in our current economic and social system. In practice, its central position gives it social responsibilities vis-à-vis migration-related diversity. These responsibilities are exercised in different ways, however, depending on the type of company, the type of migrants and the type of diversity in question.

Companies clearly differ in terms of their size, area of activity and purpose. Social responsibility will inevitably be tackled differently by a multinational and by a very small enterprise. A company's efforts to fulfil its social responsibilities, particularly in the context of working relationships with migrants, must be looked at as a package, including the whole of the supply chain. Types of jobs and contractual relationships with migrants vary at different levels of the supply chain.

The state occupies a special place in the relationship between business and migrants, by means of three mechanisms: law enforcement (legislative and other provisions), regulation (rules, standards, “diversity labels” and so on) and economic measures. The third mechanism, for example, now has a considerable impact through public procurement; accordingly, other aspects ought to be taken into account in addition to the criterion of price alone, so that competing enterprises are not forced, day after day, to generate insatiable demand for labour to exploit. As a voluntary approach, corporate social responsibility (CSR) intervenes in these very processes, encouraging all organisations to improve their practices on an ongoing basis. This phenomenon, which has become a strategic challenge for some companies, is an innovative tool in the area of diversity, both as a means of effective management and as a response to workers' and consumers' needs.

There are scores of proposals for ensuring fair access to the labour market for immigrants in destination countries, at every level of global society (UN, ILO, Europe, nations, regions and communities). Increasingly, these proposals are designed to ensure that companies are actively involved in the provision of such access. For example, at its 92nd session the International Labour Organization adopted a “plan of action to give a fair deal to 86 million migrant workers” (ILO, 2004). The action plan incorporates businesses, some of which have already started down that track. It calls for “managed migration” for employment purposes, including bilateral and multilateral agreements between host countries and countries of origin, addressing different aspects of migration, such as expanded admission procedures for legal migration, wider scope for social security entitlements, the promotion of incentives for productive investment of remittances, integration policies and social inclusion. It advocates promoting decent work for migrant workers. It also asks states to license and supervise recruitment/contracting agencies for migrant workers in accordance with ILO conventions and recommendations, with the provision of clear and enforceable contracts by those agencies. It provides for measures to prevent abusive practices, migrant smuggling and trafficking in human beings, protect migrants’ human rights and combat unlawful labour migration. It also advocates addressing the specific risks facing all migrant workers – men and women alike – in certain occupations and sectors, with a particular emphasis on those employed in dirty, demeaning and dangerous jobs and on women in domestic service and the informal economy. The ILO wishes to improve labour inspection and create channels for migrant workers to lodge complaints and seek remedy without risk.

Some countries are more active than others. The United States is ahead of Europe; businesses there have long been subject to a deliberate, mandatory policy of affirmative action. This kicked off in 1964 with the Civil Rights Act, and above all in 1965 with Executive Order No. 11246. The law calls for practical de-segregation measures. Affirmative action refers to laws or regulations designed to offset the disadvantages individuals belonging to certain socially and economically underprivileged groups within American society – defined on the basis of ethnic criteria – may face. In practical terms, affirmative action means preferential treatment for individuals belonging to groups deemed to be at a disadvantage; the criterion of competence is thereby subordinate to that of ethnicity in the employment field.

Various developments (such as increased migration, reports highlighting unequal employment opportunities and European policy and directives

on discrimination and integration) are hastening a similar trend in Europe. One example is France, where Claude Bébéar, Director of the 'Conseil de surveillance' of the AXA insurance group, submitted a report to the government in which he put forward 24 proposals for remedying unequal access to the labour market for people of immigrant origin. In the wake of this report, 600 companies to date have signed a Diversity Charter. The signatories state their commitment to pluralism and to ensuring cultural, ethnic and social diversity through recruitment and career management.

## **1. Business and migrants: common and divergent interests**

### *a. Business and social responsibility*

Generally speaking, CSR refers to voluntary measures implemented by companies with a view to sustainable development, social cohesion and competitiveness, encompassing their social, community, environmental and economic activities. Companies rely on a range of tools – rules, standards and diversity labels – for assessing the implementation and economic and social benefits of such undertakings and practices, and maximising their impact on both the company concerned and society.

When it comes to social responsibility, the public gaze is usually fixed on large enterprises.<sup>1</sup> The attitude adopted by a multinational listed on the stock exchange and subject to increasing ethical supervision (by investors as well as NGOs and workers) will inevitably differ from that of a very small enterprise, which is generally answerable only to itself or its immediate environment. Yet micro-, small and medium-sized enterprises are a major source of entrepreneurial talent, innovation and employment. In 2003, 99.8% of European enterprises were medium-sized, small or very small, employing 70% of workers. Medium-sized, small and very small enterprises consequently have a considerable impact. Any debate in this area must take account of this kind of ownership structure.

Among large enterprises, a distinction should be made between listed and unlisted companies, many of which are family businesses. The former are funded largely by investors, who are increasingly taking into

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1. We shall subsequently classify enterprises by size: large enterprises, which are generally multinationals employing more than 250 people; medium-sized enterprises with between 50 and 250 workers; small enterprises with between 10 and 50 workers; and lastly very small enterprises providing jobs for fewer than 10 people.

consideration non-financial factors (environmental factors such as energy consumption, greenhouse gas emissions, waste and water consumption, and social factors such as workplace safety, remuneration, diversity, working conditions and training) in deciding what attitude to take. To this end, they rely on specialised agencies (the Domini 400 Social Index, the Ethibel Sustainability Index, Vigeo and so on) which include diversity policy in their analysis of societal relationships. The funding of very small enterprises, small and medium-sized enterprises (SMEs) and large family businesses comes primarily from bank loans and family capital. These companies' policies are dictated largely by their owners or managers. Social responsibility always depends on management.

The type of activity also plays a key role in a company's approach to social responsibility: does it control the entire supply chain, or subcontract some of its work? Is it merely a subcontractor? Does it sell its own products straight to consumers (directly or via a distributor) or deal only business to business? Depending on these factors, it may be more or less under the spotlight and have greater or lesser control over day-to-day practice.

As a result of trade globalisation, SMEs and even very small enterprises are increasingly part of the chain of suppliers and consumers. Within that chain, large enterprises that have adopted codes of practice require their suppliers to meet certain standards in areas such as pollution, health and workplace safety. Lerberg Jorgensen and Jette Steen Knudsen (2006) state that one SME in three is subject to rules imposed by its buyers in these areas. However, these SMEs have to comply with more rules than they impose on their own suppliers. Where they do impose such rules, these are unspoken and not subject to any checks. The authors conclude that "SMEs are less likely than larger companies to act as change agents for sustainable production in global value chains" (Jorgensen and Knudsen, 2006). Worse still, SMEs are likely to have a negative effect on sustainable production. In their defence, it may be argued that these isolated enterprises cannot exert the same pressure on suppliers as large companies. Moreover, large enterprises often offload their responsibilities on SMEs, which they know are powerless to impose or apply rules of good practice owing to a lack of human and financial resources.

Finally, the company's status may be just as crucial: is it a commercial firm, a public enterprise, a social economy undertaking or an association? These various structures do not share the same purpose. Although economic imperatives appear to weigh increasingly heavily on both public enterprises and social economy undertakings (in the context of fair

trade, for example, in the case of the latter), their vocation is to serve the community, and social responsibility is part of their very essence. There are growing demands for public utilities, associations and other NGOs also to adopt codes of practice and/or charters outlining their social responsibilities.

*b. Who are the migrants?*

There are as many types of migrants as there are reasons for migration. Given that employment is the link between the business sector and migrants, certain distinctions may be made. It must be borne in mind that neither asylum seekers nor – naturally – unlawful migrants are officially counted as foreigners, and nor are naturalised first- and second-generation immigrants.<sup>2</sup>

Moreover, the terms “migrants” and “immigrants” are too vague to be used safely. They cover a very wide range of situations and specific needs that need to be taken into account, both in isolation and in the light of their complex relationships to one another, when it comes to action by the business sector in the area of migration-related diversity. For instance, particular consideration should be given to immigrants’ status, period of arrival, country of origin, standard of skills, age, gender and reason for moving.

In terms of status, migrant workers may be employees, self-employed, unemployed, asylum seekers, rejected asylum seekers, in a semi-legal situation (workers employed by foreign temping agencies, which generally operate from countries other than that in which the workplace is sited) or illegal immigrants. The International Organization for Migration (IOM) estimates the number of illegal immigrants in Europe at between 7 and 8 million.

As regards the period of arrival, it is helpful to distinguish between “first-generation arrivals”, or people of foreign origin who have recently arrived

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2. On the basis of data collected in 2000-2001, the number of legal foreign residents in the 15-member EU is estimated at 18.7 million by Eurostat. Other studies, which count “other migrants”, give a bracket of 36 to 39 million people for the 25-member EU. In the 15-member EU, nationals of third countries accounted for approximately 4% of all jobs in 2003. As the Migration Research Group emphasises (Münz, 2004), if one counts residents born abroad, residents born abroad but naturalised as European citizens, and illegal immigrants, then migrants contributed 20% of employment growth between 1997 and 2000.

or come out into the open, who have been living in the host country for a short time and whose status is fairly clear (workers, people applying for family reunification, admissible asylum seekers, refugees and so on), first-, second- and third-generation migrants, who could more correctly be defined as “natives of foreign origin”, and naturalised migrants, who are, at least officially, citizens like any other.

As far as their country of origin is concerned, migrants can fairly obviously be divided into three population groups, particularly in terms of their chances of social and economic integration. Immigrants from western and southern Europe and other industrialised countries have a higher employment rate and lower unemployment rate than nationals. On the other hand, migrants from other parts of the world, particularly Turkey and the Maghreb, do less well on the labour market and face the greatest discrimination, which drastically reduces their chances of gaining entry to the labour market and climbing its rungs. The latest wave of immigration from central and eastern Europe makes up the bulk of illegal workers.

As regards migrants’ level of education and its impact on the labour market, numerous studies show that, by and large, “nationals of third countries” are concentrated in certain sectors and occupations, although this trend usually lessens over time; for all types of skills, the proportion of migrants in manual jobs is higher than for European Union nationals, and twice as high in the case of unskilled manual jobs.

Migrants have a very different skills profile from the European population. The highly skilled and low skilled are over-represented, while the moderately skilled are under-represented. “This is mainly a result of labour markets creating demand for high and low skilled migrants” (Münz and Fassmann, 2004). In the case of skilled workers, the difference between migrants’ employment rate and that of EU citizens dropped by 5%, while increasing slightly among moderately and low skilled workers. It may be concluded that skills are no guarantee of employment: in 2002 the employment rate among highly skilled nationals of third countries was still significantly lower than among EU citizens (European Commission, 2002).

It is important, when it comes to devising appropriate policies for the economic and social integration of immigrants, to note that the foreign population is concentrated mainly in the 25 to 50 age bracket, or the most “economically active” age group. In France, young foreigners from countries outside Europe, and to a lesser extent those who have acquired French nationality, face the greatest instability and lack of job security. Young people of immigrant origin are more likely to experience unemployment or find

themselves outside the labour force, and face discriminatory practices. The most skilled are also affected: young graduates of immigrant origin have twice the unemployment rate of young people born of French parents.

Lastly, an increasingly important factor to be taken into account is that of gender. Generally speaking, the proportion of women immigrants, within broad regions of residence, rose slightly between 1960 and 2000: according to the United Nations Population Division, it was up from 46.6% in 1960 to 48.8% in 2000. In the OECD zone in 2004, however, immigrant women accounted for a slightly higher proportion of all people born abroad than their male counterparts. This finding applies to most member countries (with a maximum of 53% in Japan, and one notable exception, Portugal, with just 37%).

A more refined analysis of recent immigration (based on the number of women immigrants who had been living in OECD countries for less than five years) reveals a greater degree of feminisation. In 2004, such feminisation was particularly marked in Poland, Italy, the Netherlands, Portugal, Greece and Canada. A comparison between the number of women as a proportion of all immigrants having arrived less than 10 years previously, in 1994 and in 2004, confirms this trend towards the feminisation of immigration. In Austria in 2004, for example, women accounted for 56% of arrivals recorded in the previous 10 years, compared with 48% in 1994. In Spain, the proportion of the total female immigrant population having arrived in the last 10 years was 86%; it was 74% in Italy and 58% in Greece. In the case of south European countries, this trend may be attributed to an increase in the number of arrivals as a result of a high demand for labour in traditionally female sectors (domestic services, childcare and care for the elderly). The growing level of family migration in a number of OECD countries over the past 30 years has helped to feminise immigration. There is also a trend towards the feminisation of recipients of work permits in some sectors of the economy. In 2003, the number of immigrant women entering Canada to be recruited as skilled workers was almost equal to the number of men. In the United Kingdom, a quarter of new work permits issued in 1995 went to women, but by 2004 this proportion had risen to a third (OECD, 2005).

That said, migrant women generally lag behind in terms of access to the labour market, in relation to both men from the same group and women from the destination country. Their employment rate was 16.9% lower than that of Europeans in 2003, whereas the employment rate among male migrants was 11% lower. "Education facilitates foreign women's access to the labour market, but significantly less than for nationals. In

other words, the gap between foreign women and nationals tends to increase with their level of education" (OECD, 2005). There was a 23.2% difference between highly skilled migrant women and nationals. "For foreign women born abroad, this might suggest particular problems in relation to the recognition of qualifications." It should be added that migrant women are concentrated in low-paid sectors and occupations.

In the light of these various partial perspectives, integration could focus on an approach emphasising the experiences and feelings of population groups affected by the transformations, be they "native" or migrant. From this standpoint, notwithstanding all the factors discussed above, "migrants" are those considered as such by natives, but also those who continue to regard themselves as "foreigners", irrespective of their legal status.

### *c. Migrants' needs*

Migrants have many needs in all economic, social and cultural respects. These vary according to the migrant. They include reception facilities and support, guaranteed security of residence, housing, communication and therefore language learning and possibly literacy, access to employment and health care, further training, recognition of qualifications and skills, access to culture and the media and respect for the right to equal treatment.

Access to employment is clearly still a key factor in integration. One of the main reasons nationals of non-European countries come to Europe and settle there is the hope of better living conditions. For subsequent generations of immigrants, employment is the path to social inclusion. This need is linked to other needs: health, housing, communication, mobility, status and training. Employment secures income, enabling people to avoid becoming marginalised. In addition, the workplace gives immigrant workers an opportunity to develop their first social networks outside their community of origin.

In terms of migrants' needs in the workplace, three areas are usually identified:

- firstly, relations between colleagues, the organisational climate, conflicts and methods of communication. The main challenges relate to communication, language and mentoring;
- secondly, production relationships, which impinge on production techniques, skills and expertise. Needs relate to training, skills and recognition;

- thirdly, working conditions and remuneration. Needs relate to non-discrimination.

Similarly, migrants' general employment needs vary according to the type of migrant. People arriving in the country need support, recognition for their skills and information about their rights and national employment law. Those who have been resident in the country for some time are more concerned about discrimination issues and/or difficulties in securing suitable employment and mobility problems.

#### *d. Business needs*

Various studies on the subject (Centre d'analyse stratégique, 2006; Deneuve, 2002; OECD, 2002; Coppel et al., 2001) indicate six business needs – expressed or otherwise – vis-à-vis migration:

- the need to find productive workers (connected with demographics and growth);
- the need to find qualified/skilled staff or low skilled staff for unattractive occupations (connected with workers' qualification/skill levels and residents' willingness to work);<sup>3</sup>
- the need to develop new forms of human resource management (connected with the need for skills to move from one country or region of the world to another);
- the need to demonstrate their attractiveness (connected with globalisation and international competition for "brains", targeting highly skilled workers to help make companies and countries more competitive);
- the need for cheap, flexible labour, if not "just in time" workers (justifying the use of illegal or semi-legal migrant labour);
- the need to improve economic performance (connected with the very presence of immigrants or people of immigrant origin in the country concerned, and with growing business globalisation; an ethnically diverse workforce brings businesses closer to their clients,

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3. Where there are shortages, the solution has always been to resort to foreign labour. This need may coexist with a high unemployment rate and is increasingly linked to training opportunities for the host country's workforce.

with employees who are representative of the markets or sectors they wish to develop).

These needs may be conflicting: in the context of competitiveness, on the one hand, needs are expressed in terms of image and reputation, and are thereby aligned with socially responsible practices; on the other, a need for “illegal” labour is being expressed – unofficially of course. This is the case, for example, when large construction firms, for reasons of image and good trade union relations, cannot openly hire “cheap” migrants. They then turn to subcontractors of subcontractors, thereby absolving themselves of all responsibility. This workforce is crucial when such firms respond to calls for tenders, where contracts are awarded to the best bid; since the criterion for selection is price, it is impossible to pay workers decently. All those involved are aware of such practices. In particular, public authorities commissioning certain projects are blamed for awarding contracts on the basis of price alone.

*e. Is there any common ground between the needs of migrants and those of the business sector?*

In terms of reciprocal needs, migrants and business converge primarily in the field of employment; this is a crucial need for migrants, upon which their legal status and even their right to reside lawfully in a country are often contingent.

At the same time, employment is an area of friction between conflicting social needs, as in the case of the contradiction between, on the one hand, a large pool of unemployed reflecting inadequate training and skills and, on the other, the sometimes massive use of non-European workers trained elsewhere. This leads to another major area of friction: the brain drain.

Given western countries’ current concern about the risk to their economies of a shortage of scientists or specialised workers, they are turning to the human resources of southern countries. The cost of training such scientists and skilled workers is thereby borne by those countries that export brainpower, while the profits generated by their labour go to the most developed countries. One – albeit more costly – alternative would be to train unemployed people (including resident migrants) in western countries. Even more cynical is the attitude of western countries which impose restricted intakes on their own educational institutions and allocate part of their development co-operation budgets to training specialists (doctors, for example) in African countries. The said specialists, trained at an

unbeatable cost, are then asked to teach, at a lower salary than nationals, in the “generous donor” country suffering from a shortage of specialists. In order to discourage this kind of paradox, the UNDP’s 9th Global Human Development Report recommends taxing the export of brainpower.

Companies derive a number of benefits from employing migrants. J. Gandz (2002) groups their motivations into three categories: ethical, regulatory and economic. The benefits may involve:

- clients (the advantage of employing workers who master the language and culture of some or all of the target clientele, either locally or outside the site country);
- subsidiaries/subcontractors/suppliers (the advantage of employing workers who master the language and culture of subsidiaries, subcontractors or suppliers located in the countries of origin of the immigrant groups targeted by integration measures);
- shareholders (various shareholder demands);
- the local community (establishing the company as part of a local fabric with a high concentration of immigrant groups, and thus the benefit of working on such issues in terms of image, communication and recruitment);
- public authorities (specific measures favoured by the authorities);
- employment (recruitment problems).

At the same time, such arguments in favour of marrying business interests and migrants’ needs are not universally shared, as shown by the discrimination practised by some companies. This can take various forms, of which the Belgian Centre for Equal Opportunities and Opposition to Racism<sup>4</sup> identifies four:

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4. The Belgian Centre for Equal Opportunities is a government agency tasked with promoting equal opportunities and combating all forms of distinction, exclusion, restriction or preference based on: so-called race, skin colour, parentage, nationality or ethnic origin, sexual orientation, marital status, birth, wealth, age, creed or philosophy of life, current or future state of health, disability or physical traits. The Centre also has the tasks of ensuring respect for the fundamental rights of foreign nationals, informing the authorities about the nature and scope of migration flows and promoting consultation and dialogue with all public and private players involved in policies concerning the reception and integration of immigrants. The Centre is also responsible for promoting efforts to combat trafficking in human beings (<http://diversite.be>).

- firstly, discrimination may stem from a clear refusal to hire someone on grounds of ethnic origin, which a company director may regard as an additional “risk factor” for which he or she does not wish to take responsibility;
- secondly, discrimination may be apparent in the hiring process itself or in the course of employment contracts, in the form of arbitrary distinctions relating to remuneration and duties or a lack of access to promotion or permanent contracts;
- a third area of discrimination involves selection tests, which may include cultural elements (unrelated to the evaluation of competencies and skills) likely to disqualify people of foreign origin;
- lastly, a company may engage in discriminatory hiring practices owing to management assumptions about the reactions of existing staff or clients.

## **2. Corporate social responsibility (CSR) and migration-related diversity**

### *a. What is CSR?*

There are as many definitions of corporate social responsibility (CSR) as there are practices. The European Commission’s Green Paper on the subject, for example, defines social responsibility as “a concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis” (European Commission, 2001). The World Business Council for Sustainable Development (WBCSD),<sup>5</sup> for its part, refers to “the commitment of business to contribute to sustainable economic development, working with employees, their families, the local community and society at large to improve their quality of life”.

The various players involved in CSR take differing approaches. The business sector focuses on its strictly voluntary nature. Trade unions and non-governmental organisations, on the other hand, emphasise that voluntary initiatives do not suffice to protect workers’ and citizens’ rights. They advocate a regulatory framework setting minimum standards. Investors

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5. A body bringing together more than 180 international companies (<http://wbcsd.org>).

refer to the transparency of business activities, management techniques and their impact. Consumer organisations focus on the accuracy of information supplied by companies.

In any event, CSR is clearly a strategic challenge for business. In this connection, Duong and Robert-Demontrond (2004) identify two different rationales for responsible action: the “duty rationale”, which posits that companies have wider obligations than that of profitability; and the “benefit rationale”, or corporate social responsiveness, which argues the benefits, in terms of profitability, of managing CSR. On the economic front, a company can thereby improve its brand image and reputation, gain market share, increase turnover by offering ethical products and be seen as a market leader. It will then make competitiveness gains in terms of time, by responding to social expectations before they are reflected in legislation: it will anticipate legislative requirements and pressure from other parties playing an active role.

Given that CSR is a fairly new phenomenon, it is usually stressed that it entails an ongoing process of improvement. The Global Reporting Initiative (GRI) indicators, for example, place greater emphasis on the mechanisms put in place by companies to achieve their objectives than on the results attained.<sup>6</sup> The “diversity label” (see below) being prepared by the Belgian Government emphasises an approach based on ongoing improvement.

#### *b. Corporate social responsibility and integration of immigrants*

Relatively few European trials or studies have been conducted as yet in relation to business practices in the area of CSR and the integration of immigrant workers into the labour market in general. Economic and financial feedback is by no means automatic. The 2005 survey of the European Business Test Panel (EBTP)<sup>7</sup> regarding policies on diversity and efforts to combat workplace discrimination indicates that, of the half of respondents who stated that they were taking action to promote equality and diversity,

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6. The *Global Reporting Initiative (GRI) Guidelines* are a set of guidelines applicable to the production of reports on sustainable development. They provide a framework for companies, government authorities, NGOs and other organisations wishing to report on their economic, ecological and social performance ([www.globalreporting.org](http://www.globalreporting.org)).

7. The European Business Test Panel is a unique tool allowing the European Commission to obtain direct feedback from businesses on Commission legislative proposals or initiatives likely to have an impact on the business sector ([http://ec.europa.eu/your-voice/ebtp/index\\_fr.htm](http://ec.europa.eu/your-voice/ebtp/index_fr.htm)).

just 30% focused on racial or ethnic origin. Of those 30%, just 3% had set diversity objectives for the recruitment and promotion of workers from under-represented racial or ethnic groups (European Commission, 2005).

When it comes to migrants, CSR is often based on “diversity principles”. Large companies are the first to adopt such principles, initially implemented in the context of policies on equal opportunities for men and women and environmental policies. In France, for instance, by late August 2006 some 600 companies had signed the Diversity Charter launched in 2005. In early 2004, in its report *“Les oubliés de l’égalité des chances”*, the Institut Montaigne launched the idea of a Diversity Charter to encourage companies to ensure that their workforces reflected the various components of French society and to make non-discrimination and diversity a strategic goal (Sabeg and Méhaignerie, 2004). This idea attracted interest from a number of large companies, which were directly involved in drafting the Charter. Signatories undertake to:

- educate and train directors and employees involved in recruitment, training and career management in the issues of non-discrimination and diversity;
- respect and promote the application of the principle of non-discrimination in all forms and at every stage of human resource management, including hiring, training, career advancement and employee promotion;
- seek to reflect the diversity of French society, particularly its cultural and ethnic diversity, in their workforce, at the various skills levels, and to communicate their commitment to non-discrimination and diversity to all employees;
- provide information about the practical consequences of that commitment;
- discuss the framing and implementation of diversity policy with staff representatives;
- include, in their annual report, a section outlining their commitment to non-discrimination and diversity and setting out the action taken, practices introduced and results achieved.

In December 2005, at the instigation of the Minister for Employment and Economy of the Brussels-Capital region, some 50 companies also signed a Diversity Charter based on the French model.

That said, innovative practices do exist. In 2004, the Belgian association Pour la Solidarité conducted a wide-ranging European survey, designed primarily to identify settings conducive to the implementation of good practices in the area of partnership and dialogue between private companies, trade unions and/or NGOs, in connection with efforts to combat discrimination and promote the integration of immigrant groups. The various players involved include a significant contingent of companies within the social economy sector.

One example is the partnership established in Belgium between the integration enterprise JVD, the VDAB (the Flemish employment office), the training company AA Communications and the integration enterprise Leutrako. JVD establishes successive partnerships with companies, which undertake after three months to hire all those selected and trained on their behalf. The VDAB acts as a government training agency. AA Communications provides Dutch-language trainers and Leutrako contributes its training expertise. The partners' aim is to find jobs for immigrants who are excluded from conventional employment and training circuits because they do not speak the language or possess work permits or recognised qualifications.

In Italy, the CGM (National Consortium of Social Co-operatives) and DIESIS (a European organisation supporting the social economy) established a partnership early in 2001 with the ZLSP (Auditing Union of Workers) in Poland. The partnership's objectives are threefold: finding a solution to the urgent need for nursing staff in Italy, particularly in the north, providing stable job opportunities for skilled Polish immigrants and supporting the development of health service management co-operatives in Poland. The project is based on the concept of reciprocal co-operation, and balanced local growth is seen as a crucial factor in sustainable, constructive co-operation: "It is a matter of combining a broad vision with practical action in such a way as to satisfy urgent practical needs while developing social and economic capital in the countries in question ... In Italy and the rest of Europe, the immigration market is often considered from an economic perspective, without any attention being paid to reciprocity or social integration", say the partners.

The partnership has resulted in the employment of 77 Polish nurses by Italian co-operatives, the establishment of a network of Italian and Polish co-operatives, the spread of the social co-operative model in Poland, promotion – thanks to support from Polish co-operatives – of the development of quality standards in the Polish health sector and the establishment of a consortium of co-operatives in Poland (Pour la Solidarité, 2004).

The impetus for such action may come from public authorities, human rights organisations, trade unions, commercial firms or non-commercial undertakings involved in a CSR process (formal or informal). Partnerships target very different groups: first-generation arrivals, immigrants who have been settled in the country for a number of years (the majority), second- or third-generation immigrants, groups in the host country, the labour market, managers, recruiters, the unemployed, young people, Roma and illegal immigrants. Action focuses on access to the labour market, efforts to combat ethnic discrimination in the workplace, quality monitoring and assurance, social integration and policy.

An increasing number of studies show that some companies involved in specific CSR measures aimed at migrants make very little reference to the CSR model or to an ethical charter, large companies being the exception. Most associations and co-operatives view social responsibility as being part and parcel of their organisation and central to their work. Some have drawn up codes of ethics or undertaken a social assessment of their structural components.

In Luxembourg, for example, the integration enterprise Co-Labor and trade unions use the two-yearly industrial relations negotiations to make labour law accessible to those entering the labour market, particularly foreign employees. Training is provided in real-life situations, affording an opportunity to become part of a culture of dialogue. In France, SOS-Racisme has comprehensively reviewed all the practices of the French Recruitment Office: this has given rise to training for consultants, a new database preventing discriminatory annotations concerning candidates and the appointment of an ethics committee.

This is consistent with the findings of a 2003 study by the French association Novethic: the main reference texts on corporate social and environmental responsibility show that international organisations do not advocate a specific approach for SMEs, and indeed overlook their distinctive features (Novethic, 2003).

### *c. Factors, scope and performance indicators*

CSR in the area of migration-related diversity involves two types of factors:

- factors that cannot be changed, such as age, gender, physical ability, ethnic origin, skin colour and creed;

- factors that can be changed: abilities, work experience, language and other skills, and more generally the demographic profile, behaviour and attitudes of staff.

The scope of CSR in this area is very wide-ranging. It includes the involvement of senior management, strategy, organisational policies, management incentives, organisational structures, evaluation processes, communication, support networks, education and training and the demographic profile of the workforce (on the basis of employment indicators for foreign workers or those of foreign origin where this is legally allowed).

The Fauroux Report explores every aspect of this issue in France. Its main proposals and recommendations are aimed at employers' organisations, trade unions, companies, employment agencies and government authorities. It suggests, *inter alia*, introducing diversity audits, encouraging discrimination testing and drawing up action plans tailored to each worker's culture in consultation with workers or their representatives; getting public and private employment agencies on board; providing in-depth training for all employment agencies (public and private), company managers and heads of human resource management departments, and introducing audits of human resource management departments to identify indirect or systemic discriminatory practices; reviewing recruitment and human resource management procedures with a view to combating recruitment based on networks, co-option and contacts and making recruitment procedures more objective (job descriptions and associated requirements); and promoting anonymous CVs (Fauroux, 2005).

It remains to be seen whether this will go beyond good intentions. Efforts to clarify the various aspects and scope of CSR with a view to promoting the integration of immigrants and recognition of their diversity must be coupled with the genuine development of performance indicators and evaluation and monitoring instruments. Moreover, "one of the key challenges in implementing diversity policies has been measuring their impact", warns the European Network Against Racism (ENAR, 2006). Nearly 70% of those companies in the EBTP study that have already introduced diversity policies or are in the process of doing so do not monitor their impact on a regular basis (European Commission, 2005).

There are a number of reasons for the lack of follow-up. One – perhaps even one of the main ones – is the fact that collecting data on ethnic origin and creed is not allowed in most European countries, in contrast to the United States, for example. This prohibition stems, *inter alia*, from the translation into domestic law of the Community Directive on data

protection (Council Directive 95/46/EC). The directive does provide for some exceptions, however, where consent or prior authorisation is given. Ireland, the Netherlands, Sweden and the United Kingdom have introduced such exceptions as part of either anti-discrimination laws or laws promoting minority interests.

That said, a number of other evaluation instruments are available. Very few focus specifically on migrants: most have been developed in the context of CSR, for example surveys by independent authorities or NGOs, certain ad hoc indicators and social or ethical reports.

As far as surveys are concerned, in December 2005 the High Authority against Discrimination and for Equality (HALDE)<sup>8</sup> wrote to the 146 companies that had signed the Diversity Charter, asking them to list measures they had taken to combat discrimination and promote equality. Out of the 110 companies that responded, six provided extremely comprehensive dossiers, 58 supplied documentation and 46 indicated their intention to participate in data collection. "In many companies," said Louis Schweitzer, President of the HALDE, "these are still just measures implementing the law, many of them specific and piecemeal, and it is not yet possible to talk about a coherent policy that is part and parcel of the group" (HALDE, 2006).

As regards indicators, the main objective is still to quantify the outcome to be attained and to monitor and evaluate it against specific criteria, which – as far as possible – should be set in consultation with all concerned. Increasingly, the reference text when it comes to indicators is the aforementioned GRI guidelines. In addition to national initiatives, it is important that the GRI continue to act as the CSR reference body, and that the indicators used be recognised by all, including social NGOs and migrants' associations, as well as SMEs and very small enterprises, which face different pressures. One of the priorities is to negotiate with the GRI with a view to expanding the list of indicators relating to diversity and ensuring that these are systematically discussed in its reports. The indicators used by leading social rating agencies (such as Vigeo, The Good Banker, Innovest and Covalens) should also be based on universally acknowledged assessment criteria.

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8. The High Authority against Discrimination and for Equality is an independent French administrative authority set up under the Act of 30 December 2004. Its general tasks are to combat discrimination prohibited by law, to supply all relevant information, to support victims and to identify and promote good practices.

In practice, companies use indicators such as increased representation, retention of high-level directors, improved perceptions of diversity issues among minority and majority groups within the company and involvement in commercial standards and processes.

The indicators most commonly used by large companies, such as the GRI indicators, remain very general: performance indicators for migrant-related diversity policies have yet to be developed. It would be worth organising a series of specific round table discussions, initially at national level and subsequently at European level, bringing together all interested parties to develop such indicators on a joint basis. It is apparent that key areas are still unexplored or marginal to the development of such indicators, such as average wage or salary levels among migrants as compared to nationals, the proportion of annual hiring and firing involving migrants, the percentage of migrant employees belonging to vulnerable groups, the percentage of migrant employees having access to training and the percentage of migrants registered with a trade union.

### **3. Towards a new model for developing and recognising migrants' skills?**

#### *a. Legal reference frameworks*

As far as legal frameworks are concerned, CSR criteria are based on a number of international and European provisions; CSR thereby contributes to their implementation alongside the institutional mechanisms set up.

At the international level, for example, there are numerous standards intended to protect against workplace discrimination and promote equality for all workers. These include ILO conventions Nos. 97 (1949) and 143 (1975), dealing with discrimination against migrant workers. Other examples include the 1965 United Nations International Convention on the Elimination of All Forms of Racial Discrimination and the Council of Europe's European Convention on the Legal Status of Migrant Workers (ETS No. 093), adopted in 1977.

It should also be noted that the rights enshrined in the European Social Charter (1966, revised in 1996), overseen by the European Committee of Social Rights of the Council of Europe, "include foreigners only in so far as they are nationals of other Parties lawfully resident or working regularly within the territory of the Party concerned" (Appendix to the

Charter), “without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status” (Article E).

At the European Union level, Directive 2000/43/EC, commonly known as the racial equality directive, implements the principle of equal treatment irrespective of racial or ethnic origin. Also relevant is Framework Directive 2000/78/EC on equal treatment in employment. Both directives have been transformed into the domestic law of the 25 member states.

At national level, some countries have passed legislation that is more restrictive than the European directives, and are also implementing positive measures. The Netherlands, for example, passed laws intended to encourage labour force participation by minorities (Wet Samen, 1998 Stb. 242 & 2001 Stb. 513). These laws required employers to calculate the proportion of employees of foreign origin within their companies. Employers (of more than 35 employees) were asked to report (annually) the ethnic make-up of their staff. They had to draw up a work plan in which they specified how, in the long term, they would ensure that the ethnic make-up of their staff reflected the ethnic make-up of the area in which the company was situated. They had to submit an annual report to the regional employment office on the steps they had taken to implement the work plan. These laws were repealed in 2004, and replaced by voluntary action by companies.

Numerous studies, measures and awareness-raising programmes have been, and still are being, undertaken as a result of such legislation, conventions and charters. In particular, these include European initiatives such as EQUAL, along with programmes designed to promote CSR. Examples include the production of the handbook *Diversity among Staff Members: Challenge and Added Value for Management in Enterprises and Institutions* (ITHACA, 2004) and the “Elmer” project, which brings together companies such as AXA, Adecco, IKEA and PSA under the auspices of French association IMS-Entreprendre pour la Cité, to experiment with the introduction of company diversity policies.

#### *b. Voluntary action and social clauses*

Government action in relation to CSR and immigrant welfare ought to be developed at the same time, on the basis of a two-pronged strategy:

support for voluntary action by the business sector, together with binding rules.

On the one hand, voluntary action should be supported, since it encourages businesses to improve their practices on an ongoing basis. Companies are increasingly conscious of their social responsibilities, but this trend primarily involves large companies operating in normal conditions of competition. Supporting the voluntary framework introduced by businesses means identifying firms that are leaders within their sector by means of “diversity labels”, prizes, publicity campaigns and advertising, making these companies and their products “ambassadors for diversity”. Support should also be given to business associations formed to further such practices, and to the activities of social NGOs that work with all parties to help companies develop a holistic view of discrimination and the integration of migrants. Government authorities could also assist voluntary action through a system of bonuses or tax incentives for the introduction of genuine diversity policies.

On the other hand, given that businesses believe they are “forced” to ignore CSR principles in the context of public procurement contracts, it has to be said that only binding rules will be effective. It is therefore necessary to take legislation a stage further, drawing a distinction between efforts to combat all forms of discrimination in employment, which must unquestionably be regulated by law, and the promotion of diversity, in which incentives can play a greater role. Legislation against discrimination and the hiring of illegal migrants should be coupled with more stringent labour inspections – and the necessary tools and resources – and harsh penalties for employers. The application of such laws must be monitored. Government authorities are the guarantors of equality among citizens, and every effort must be made to restore that equality.

Discrimination testing is a tool worth supporting, for workers find themselves in a power struggle that often stops them lodging complaints. Such testing compares the outcomes of equivalent applications – real or fictitious – to the same employer. The real potential of this very costly method is its benefit in evaluating anti-discrimination legislation and as a starting point for developing new policies. The United Kingdom has made the greatest use of discrimination testing (Wrench and Modood, 2000). The International Labour Office also conducted a series of studies in the mid-1990s (Zegers de Beijl, 2000).

Furthermore, in order to ensure that price is no longer an obstacle to responsible practices, exclusively price-based criteria for the award of

public procurement contracts should be reviewed, and social clauses introduced. “The volume of government procurement (€110 billion per year, or 9% of GDP) is such that it can act as a stimulating force, encouraging companies to promote diversity. The efforts of companies awarded a ‘diversity label’, that is, those whose workforce reflects the plural nature of French society, should be rewarded in the granting of public procurement contracts.” (Assemblée Nationale, 2006).

For example, a number of Dutch SMEs have joined the Fair Wear Foundation as a result of the social clauses now included by Dutch Government authorities in business agreements on work uniforms, for example. Such initiatives are to be encouraged, since they also prompt SMEs to invest in socially responsible action. In France, integration through economic activity has undoubtedly grown as a result of the “social highest bidder” rule (Decree No. 2001-210 of 7 March 2001 on the Public Procurement Code), which has benefited unemployed workers of immigrant origin. Links have been established with the so-called conventional economy. Employees have moved from one sector to the other, *inter alia* as a result of agreements between so-called conventional temping agencies and temping groups that seek to integrate immigrant workers.

European government authorities have a key role to play in this area. Directives could be drafted to combat social dumping between European countries and the fact that some countries (such as Ireland in the transport field) allow foreign workers to compete with workers who are subject to national legislation. Generally speaking, the entire European competition law sector, which seeks to promote lower prices for consumers through competition, cannot serve as a justification – as is presently the case – for social decline caused by putting migrant workers into competition with national workers. European competition requirements are at odds with European social cohesion requirements. The former now take precedence over the latter. The balance of power must be reversed.

Additional efforts are needed to increase the number of companies and population groups involved, in the form of measures to address SMEs, if not binding regulations. Many SMEs are unreceptive to the CSR model owing to a lack of time, resources or willingness. One way of tackling this situation would be, as advocated by EQUAL, to make use of the employment services; it is the quality of available business mediation services, rather than any kind of financial incentives, that will prompt small companies to hire – or not to hire – migrants.

c. *Dialogue between management and labour, the role of consumers and “diversity labels”*

Government authorities must also invite employers’ organisations and trade unions to adopt a long-term diversity strategy and monitor its results. In this context, trade unions and employers’ organisations must completely take on board the issue of diversity and, more generally, the new requirements in terms of mediation and solidarity between nationals and migrant workers, and between migrant workers themselves as long-term residents or first-generation arrivals, legal or illegal migrants and so on. If this objective is to be attained, the dialogue between management and labour must be extended to NGOs, immigrants’ associations and consumers, so as to provide scope for crucial innovation.

The business sector and government authorities could engage in discussion and call for ideas for using migrants’ skills and needs in order to enhance growth. Government authorities and business associations promoting CSR could highlight projects that make use of migrants’ specific skills to develop activities or improve company growth. For instance, mass retailers can identify those skills possessed by migrants that correspond to consumers’ emerging needs. In the service sector, migrants also possess specific skills that both business and government authorities can use to develop new activities or enhance existing activities.

Consumers are becoming increasingly sensitive to ethical criteria, as demonstrated by the success of fair trade labels. This is the result, *inter alia*, of information campaigns and action by consumers and social NGOs and the work of institutions and public authorities (the Council of Europe, the European Union and individual states) to promote social cohesion and CSR. A “diversity label” could play a similar role in this area if it were accepted by consumers’ movements, employers’ organisations, trade unions and migrants’ associations alike, and if government authorities provided substantial resources to support and publicise it. Such a label is being finalised in Belgium and France, and its feasibility is currently being tested in Belgium. It is based on voluntary action by companies wishing to go beyond their legal obligations in the area of diversity. In particular, they are to be judged according to the resources allocated and the sustainability of their action. Diversity plans must include a process of analysis, planning, introduction and evaluation. Such a label must allow measures to be tailored to the organisation’s size, area of activity and specific problems. It is crucial to avoid unwieldy bureaucracy and excessive costs. Naturally,

the impact of such a label would be even greater if it were developed and adopted at a much wider level, especially at European level.

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### **III. Understanding and supporting ethnic minority businesses: some considerations on the UK situation**

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#### **Introduction**

Interest in ethnic minority businesses<sup>1</sup> (EMBs) has developed considerably in recent years. The reasons are varied. First, ethnic minority enterprise is an emerging economic force. A recent report by Barclays Bank (2005) indicated that the growth in EMB start-ups was twice that of the wider small firm populations. EMBs represent almost 7% of the total business stock in the UK; this is likely to increase over time since the ethnic population is expected to double over the next twenty-five years. Second, at a national level, the Department of Trade and Industry's (DTI) Small Business Service has signalled its commitment to supporting EMBs through its remit to encourage and support entrepreneurship in all social groups (DTI, 1999). Boosting enterprise in disadvantaged areas is an important strand of government policy on small firms and it is clear that the overwhelming majority of ethnic minorities reside in the most disadvantaged areas of the UK (Mascarenhas-Keyes, 2006). Finally, at regional and local levels, policy makers and practitioners continue to report low take-up of business support services by EMBs, despite their significance to many metropolitan areas (Ram and Smallbone, 2002). Hence, on the grounds of equity, there is a pressing policy concern to ensure that public sector business support is being utilised by all communities.

Key theoretical developments in the study of ethnic minority entrepreneurship are documented elsewhere (see Ram and Jones, forthcoming, for the UK and Rath 2000, for Europe). The aim of this paper is to provide an overview of EMBs in the UK. Its purpose is threefold. First, key features

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1. For the purpose of the current research, EMBs are defined as businesses that are either wholly or at least 50% owned by people of ethnic minority origin, that are from a different cultural and linguistic background to those businesses that are managed predominantly by white, European, English-speaking people.

of EMBs in the UK are outlined, focusing in particular on the scale of EMB activity, sector, location, financial experiences and use of public sector business support. Second, policy developments relating to EMBs are presented. Third, important challenges for policy makers and practitioners working with EMBs are identified.

## **1. Ethnic minority businesses (EMBs): key features**

### *a. Size and growth of the EMB population*

Drawing on a range of large-scale DTI surveys of small firms, Mascarenhas-Keyes (2006) suggests that “there are more than a quarter of a million ethnic minority businesses in the UK, which contribute at least £15 billion to the UK economy per year”.

In England alone, ethnic minority businesses made up 5.8% of SMEs in 2004. There is a great deal of growth in ethnic minority businesses: they accounted for 11% of new business start-ups in 2004, which is an increase from 9% in 2000. Growth in ethnic minority business start-up is therefore double the growth rate in total business start-ups (Barclays Bank, 2005).

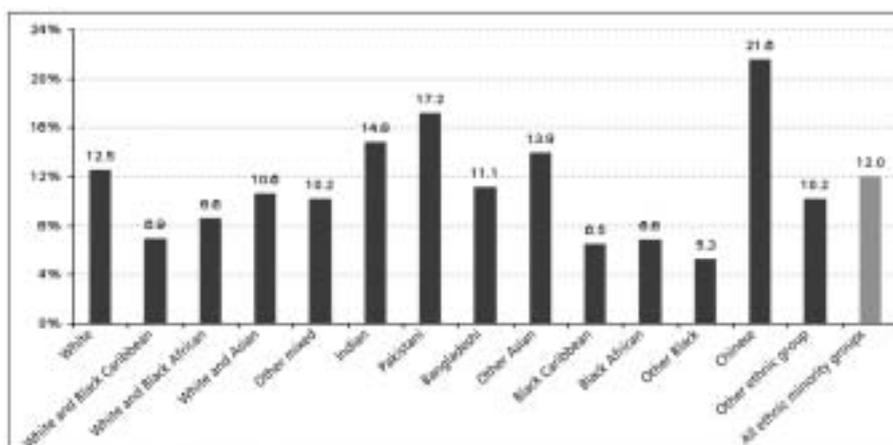
The scale of ethnic minority enterprise needs to be seen in the context of population size, immigration patterns and labour market outcomes. In 2001, non-white ethnic minorities made up about 8% of the UK population and 9% of the population of England. Indians are the largest of the ethnic groups, followed by Pakistanis, mixed ethnic groups, black Caribbean, black Africans, Bangladeshis and Chinese. Of the non-white population in the UK, 15% are from mixed ethnic groups and about a third of this group are from white-black Caribbean backgrounds (Mascarenhas-Keyes, 2006).

There are indications that, for some ethnic minority groups, this sustained growth since the 1970s may be coming to an end. In the case of Indians, the rate of self-employment is converging with the rate among white SME owners. It is suggested that this reflects an increasingly well-qualified, British-born generation taking advantage of increasing job opportunities for professional and other high grade workers (Jones and Ram, 2003).

The disparity between the circumstances of different ethnic minority groups involved in small business activity is a key issue. This is clearly

reflected in the patterns of self-employment among ethnic minority communities, as indicated in Figure 1 (cited in Mascarenhas-Keyes, 2006). The highest self-employment rate is found among the Chinese (21.6%), followed by Pakistanis (17.2%), Indians (14.8%), other Asians (13.9%) and Bangladeshis (11.1%). The high self-employment rate amongst Asians contrasts with the low rate among black groups. The lowest self-employment rates are to be found among black Caribbean (6.5%) and black African (6.8%) groups. Among mixed groups, the lowest self-employment rate is to be found among the white and black Caribbean group (6.9%). From a policy perspective, it is important to recognise the diversity that exists between ethnic minority groups and to guard against treating EMBs as a single category from a finance and business support standpoint.

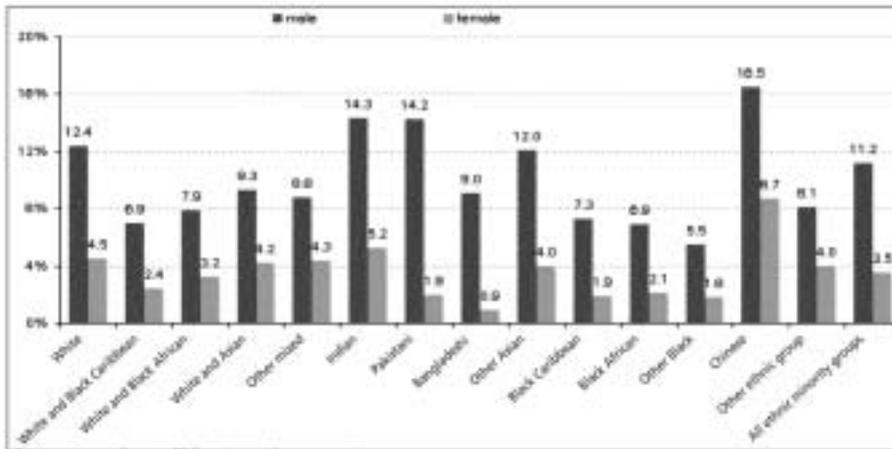
**Figure 1: Self-employment rate of all economically active aged 16-74, England and Wales**



Source: Census (2001) ([www.statistics.gov.uk/census/default.asp](http://www.statistics.gov.uk/census/default.asp))

An analysis of self-employment rates by gender reveals further complexity. Figure 2 (cited in Mascarenhas-Keyes, 2006), shows that ethnic minority males (11.2%) have a lower self-employment rate than white males (12.4%). However, Chinese (16.5%), Indian (14.3%) and Pakistani (14.2%) males have a much higher rate than whites, while Bangladeshi (9%), black Caribbean (7.3%) and black African (6.9%) males have much lower rates than white males. The lowest self-employment rate is among other black males (5.5%).

**Figure 2: Self-employment rate by gender of all economically active aged 16-74, England and Wales**



Source: Census (2001) ([www.statistics.gov.uk/census/default.asp](http://www.statistics.gov.uk/census/default.asp))

The rate of female self-employment among ethnic minorities is lower (3.5%) than that of white females (4.5%). However, Chinese (8.7%) and Indian (5.2%) females have a higher self-employment rate than white females, while Bangladeshi (0.9%), Pakistani (1.9%), black African (2.1%) and black Caribbean (1.9%) women have lower rates. The lowest self-employment rate is among Bangladeshi women.

These figures should be treated with some caution. It is unlikely that they capture the largely unacknowledged and invisible work that is undertaken by ethnic minority women, notably within the south Asian communities (Dawe and Fielden, 2005). It is almost certain that the low participation figures cited for Asian women mask the true extent to which women participate in the enterprise, and often play pivotal roles in the management of the business (Dawe and Fielden, 2005; Ram, 1992; 1994; Phizacklea and Ram, 1996). The point to note here is that despite male assertions of single ownership of their enterprises, a notable number of businesses are registered legally as family partnerships which, in essence, constitute joint ownership between husband and wife.

*b. Business sector and location*

EMBs tend to be concentrated in a comparatively narrow range of sectors. For example, south Asians are strongly represented in the catering,

clothing and food retailing sectors (Ram and Jones, 1998); Chinese involvement in the take-away trade is particularly noticeable (Song, 1999) and although black Caribbeans have a comparatively low level of self-employment, their propensity to be involved in the construction sector has been noted (Ram and Jones, 1998). This is important because the prospects for business development are influenced by the degree of competition in particular sectors. Sectors that EMBs have traditionally operated in – clothing and retailing – have been subjected to severe market pressures, which have been exacerbated by regulatory change. Such developments will impinge upon the viability and support needs of EMBs.

The promotion of market diversification, or “break-out”, by policy makers is a response to this sectoral skew (Ram and Smallbone, 2003). However, this response may well entail a fundamental change to a business’s operations if it is to succeed. In essence, “break-out” can be a difficult and long-term process, which may well be assisted by appropriately tailored external support.

Reflecting ethnic settlement patterns more generally (Ward, 1987), EMBs tend to be located within inner city areas. The non-white population of England is concentrated in large urban centres, with about 64% living in five cities: London, Manchester, Birmingham, Bradford & Leeds and Leicester. In 2001, almost half (45%) of the non-white population of Great Britain lived in London. In the case of ethnic minorities, 32% live in the most deprived areas, which is double the proportion that would be expected given their population size (Mascarenhas-Keyes, 2006). Often, such settings have been subject to urban decay, and are the focus of regeneration efforts. This can compound the problem of raising finance and attracting custom.

### c. *Access to finance*

Access to finance is a perennial issue for EMBs (and often for small firms per se). The recent British Bankers’ Association study (Ram et al., 2002), which was based on the largest ever survey of EMBs in the UK, reinforces the importance of diversity as a key theme. The survey evidence indicates that as a group, EMBs are not disadvantaged in terms of start-up capital from banks and other formal sources. However, more detailed analysis shows considerable variation between ethnic minority groups with the black-Caribbean business community finding it most difficult to access start-up capital. When this evidence is combined with that from previous

research, black-Caribbean businesses appear to face particular problems in accessing start-up finance including:

- a higher propensity turn to non-bank formal sources of start-up finance (including various sources of last resort lending, such as enterprise agencies);
- a below average propensity to access informal sources of start-up capital (such as family) at least in comparison with other ethnic minority groups;
- lower success rates in accessing external finance among established black-Caribbean businesses compared with other established firms.

To a significant extent, these difficulties reflect the types of businesses and sectors characteristic of black-Caribbean entrepreneurship. However, these business reasons could not explain the full extent of the disadvantages faced by such business owners.

#### *d. Business entry motives*

The business entry decision is probably one of the most rehearsed issues in the literature on ethnic minority enterprise (see Barrett et al., 1996; and Ram and Jones, 1998). Explanations tend to attribute labour market constraints (Jones et al., 1992), the importance of cultural attributes (Basu, 1998), or similar motivations to the general small firm population (Curran and Blackburn, 1993). However, from the very outset, a weighty body of evidence has been presented to suggest that the Asian drive into self-employment has to be seen, in large part, as a survival mechanism during a period of de-industrialisation and catastrophic job loss which, in a racist job market, affected ethnic minorities even more heavily than other workers (Barrett et al., 1996; Jones et al., 1992; Ram, 1994).

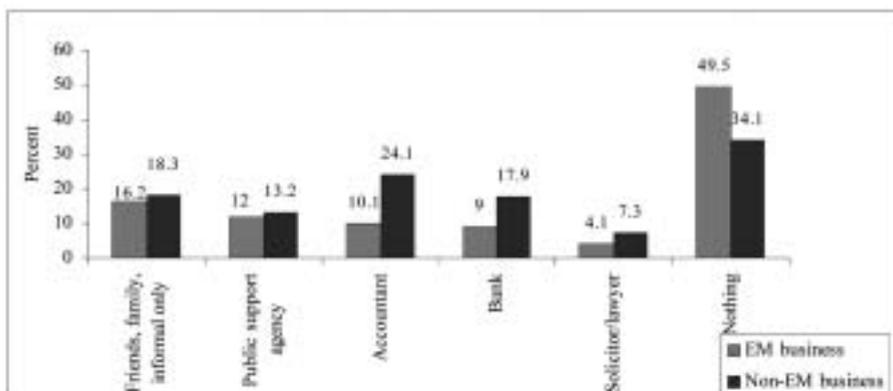
Powerful support for this view is provided by Clark and Drinkwater's 2000 study, which is drawn from the Fourth National Survey of Ethnic Minorities. This survey, conducted between November 1993 and December 1994, comprised interviews with 5 196 individuals of Asian and Caribbean origin, aged 16 and over; 2 687 whites were also interviewed. The results suggest that discrimination against ethnic minorities in paid employment contributed to the over-representation of minority workers in self-employment (although there was also a role for some pull factors). Mascarenhas-Keyes' 2006 review of two large-scale surveys of small firm populations further illustrates the prevalence of "necessity entrepreneurship" amongst

EMB owners in the UK. The Annual Small Business Survey (with a booster sample of EMBs) reported that a higher proportion of EMBs compared to non-EMBs found it difficult to secure the right job (7% compared to 2%) or indeed any job (9% compared to 7%) as a reason for going into business. The Household Survey of Entrepreneurship (2005) found that, among the unemployed, a greater proportion of black and Asian “thinkers” (that is, individuals who have recently thought about starting a business) compared to white “thinkers” said they would like to start a business because they were unable to obtain regular or suitable employment. Furthermore, a higher proportion of black and Asian “doers” (those who are self-employed or own a business) compared to white “doers” said they wanted to get away from the discrimination that had occurred at their previous place of employment.

*e. Use of business support*

The comparatively low use of formal sources of business support by EMBs is widely reported (Ram and Smallbone, 2003; Deakins et al., 2003; Ram et al., 2002). For example, Ram et al. (2002) found that only 7% of EMBs compared to 11% of white-owned businesses used public or quasi-public agencies for start-up advice. Surveys undertaken by the Small Business Service (Mascarenhas-Keyes, 2006) confirm this pattern. Figure 3 shows that EMBs are less likely to seek advice – half of EMBs do not seek advice compared to a third of non-EMBs.

**Figure 3: Sources of advice about starting up the business (percentage in each category of all businesses trading for less than four years)**



Source: Whitehead et al. (2006)

## 2. Policy developments and EMBs

The growing awareness of the context in which EMBs operate has been accompanied by considerable interest in the development of more effective business support policies. This reflects a variety of factors, including the tendency of ethnic minority firms to use business services to a lesser extent than the general small business population (Ram et al., 2002); the Small Business Service's remit to cater for all businesses (Ram and Smallbone, 2003) and the promotion of enterprise as a means of tackling disadvantage in deprived areas (Blackburn and Ram, 2006). The creation of an advisory body, the Ethnic Minority Business Forum, within the Department of Trade and Industry, has also kept the issues to the forefront of the agenda on small business policy. This has been reinforced by the creation of similar bodies at a regional level. Finally, the advent of the Race Relations (Amendment) Act 2000 has provided an additional legislative stimulus. This Act gives public authorities, including the Small Business Service, a statutory duty to promote race equality. The general duty expects public authorities to take the lead in promoting equality of opportunity and good race relations.

These developments have precipitated a flurry of initiatives aimed at engaging EMBs in public sector business support. A variety of models have been used, directly or indirectly, to promote ethnic minority entrepreneurship and to improve engagement with business support providers. Ram and Smallbone (2003) provide a typology comprising five different approaches to business support for ethnic minority entrepreneurs.

The first element relates to specialist agencies or programmes focused on EMB clients. Publicly funded initiatives to support EMBs have been a feature of the small firm policy agenda since the Brixton disturbances in the early 1980s. Lord Scarman's report on the implications of this civil unrest identified a key role for the promotion of "entrepreneurship" as a means of tackling disadvantage and maintaining social harmony in urban areas. This led to the establishment of five black-led enterprise agencies in areas of high black-Caribbean population (EMBI, 1991). Within a short space of time these agencies had proliferated and established themselves as a means of facilitating the economic regeneration of those communities disproportionately affected by unemployment. The potential "reach" of such initiatives into ethnic minority communities is seen by some as an important strength (Memon, 1988). But equally, concerns have been expressed in relation to their rationale, approach and effectiveness (Deakins et al., 2003).

Incorporating an explicit EMB dimension within mainstream provision is another approach to supporting EMBs. Although specialist EMB agencies may have an advantage over mainstream support organisations in terms of ease of penetration for ethnic minority communities, they are not a practical solution in all areas, since their viability depends on the degree of concentration of the ethnic minority population. They are often forced to rely on project or contract-based funding which, with a few exceptions, often leads to under-resourcing and patchy effectiveness. Another problem is that unless their network links with mainstream organisations are strong, there is a danger that EMBs become marginalised from the mainstream system. Ram and Smallbone (2003) report on a number of initiatives where mainstream programmes and/or agencies had adapted their delivery methods in ways that were sensitive to the needs of EMBs. Typically, they included establishing targets for assisting EMBs within generic programmes; involving ethnic minority advisors in the programme delivery and recognition of the need to make promotional material for support agencies available in languages that are appropriate to the locality.

Sector-based initiatives have also been used to support EMBs. It is widely recognised that EMBs tended to be clustered in a comparatively narrow range of sectors. In the light of this, there are some examples of initiatives that focus on sectors of particular importance to EMBs. The case of Coventry Clothing Centre provides an example of a potentially fruitful synthesis between the sectoral logic of enterprise support, and credibility derived from being embedded in appropriate community and business networks (Beckinsale and Ram, "Report on an initiative to promote the uptake of ICT amongst EMBs in the retailing and catering sectors", forthcoming).

Despite little UK (or European) research on engaging the corporate sector in supplier diversity initiatives, there has been much speculation about the value of emulating US practice in this sphere. Some (for example, Migration Policy Group, 2002) see the role of a US-intermediary organisation like the National Minority Supplier Diversity Council (NMSDC) as a useful model. Ram et al. (2005) deploy an action research approach to evaluate the implementation of such an initiative. The initiative, entitled Supplier Development East Midlands (SDEM), drew on features of the corporate-led NMSDC. But in transferring the programme to the UK through the vehicle of SDEM, it was clear that the potency of triggers such as law and demography – which facilitated the development of the NMSDC – were much diminished. Different sources of legitimacy had to

be drawn upon, including the relationship with the NMSDC, SDEM's academic status and growing awareness in policy and practitioner circles of the potential role of supplier diversity in promoting ethnic minority business development. Although SDEM has just completed its first year, the results are encouraging. Corporate membership has more than doubled; contracts have been exchanged, which in terms of value, are in excess of five times the cost of the initiative and there have been instances of EMBs combining to bid for corporate sector contracts. The success of the initiative has been such that it has now evolved into a private, not-for-profit company (Minority Supplier Development UK Limited) fully under the control of the corporate sector.

Initiatives to improve access to finance comprise the fourth element of the Ram and Smallbone typology. Although it is widely recognised that the process of raising finance is difficult for many small firms, previous research has suggested that members of ethnic minority communities face additional barriers compared with other firms, particularly at start-up (see Ram et al., 2002 (for review)). In response, there have been a number of attempts to provide financial support for EMBs.

Ram and Smallbone (2003) note the example of the Muslim Loan Fund (MLF), established by the East London Small Business Centre in January 2001. The MLF is an innovative financial initiative, targeted at the needs of businesses whose owners are unable, for religious reasons, to access interest-bearing funds. Under the management of an established enterprise agency with considerable experience of managing and delivering loan funds for small firms, including EMBs, the Muslim Loan Fund is an example of an initiative that is tuned to the financial needs of a specific ethnic group, thus recognising the diversity that exists between ethnic minority groups.

The fifth and final component relates to strategic initiatives that aim to locate and identify the key characteristics of EMBs. This can be seen as a response to the widely noted problem of inadequate information on the scale and dynamics of EMBs. To this end, a number of Business Links in Birmingham and London have made particular efforts to establish central resources to improve data on the scale and dynamics of EMBs in their catchment areas (Ram and Smallbone, 2003).

Perhaps the most prominent strategic initiative is the Ethnic Minority Business Forum (EMBF), which exists to advise ministers on the issues facing ethnic minority business communities. Launched in July 2000 to strengthen the government's dialogue with ethnic minority business

communities, the Forum is a sounding board for ethnic minority businesses and government alike. The EMBF's remit is to provide independent advice to government in relation to SME policy and practice as it relates to ethnic minority business. It has two principal functions: to engage with government departments and offer strategic advice on matters relating to ethnic minority enterprises and to listen to ethnic minority businesses in order to take note of their views.

Membership of the Forum comprises 17 business owners from different ethnic minority communities and an academic specialising in the field of ethnic minority entrepreneurship. Board meetings are held at approximately two-monthly intervals, and provide an opportunity to meet with government officials and ministers and contribute to consultations and policy reviews. The EMBF also holds regular consultation events in different regions of the UK. These events provide an opportunity for the Forum to engage directly with business support organisations as well as ethnic minority businesses. The ensuing discussions are taken into account when providing advice to government.

Much of the detailed work of the Forum is undertaken in four subgroups, which correspond to areas of importance for EMBs: finance; access to markets; leadership and workforce development and business support. Currently, a major concern of the finance subgroup is to promote the recommendations of a major survey on the financial experiences of EMBs. The "access to markets" subgroup is examining ways of increasing supply chain opportunities between EMBs and large organisations in the public and private sectors. Encouraging EMBs to take advantage of training opportunities is a key issue for the "leadership and workforce development" subgroup. The "business support" subgroup is very keen to improve the quality of information on EMBs so that policy can be improved.

### **3. Supporting EMBs: key challenges**

#### *a. Improving data capture*

A lack of reliable information on EMBs is a common problem in many areas of the United Kingdom (Ram et al., 2002) The inadequacy of data on the scale, dynamics and performance of ethnic minority firms is problematic for a number of reasons. First, it makes it difficult to assess the extent to which ethnic minority businesses are participating in the myriad schemes, services and programmes of support for small firms.

Second, without adequate information, support agencies are unlikely to develop an accurate picture of the problems, priorities and potential of ethnic minority businesses; thus making it difficult to devise measures that respond to client needs. Third, a growing diversity of ethnic minority enterprises is widely noted (Jones et al., 1992; Ram and Smallbone, 2003). There are differences between ethnic minority groups, between different generations, between different sectors and between different stages of development. Accurate and relevant information is important if services are to be tailored appropriately.

The five city study of EMB support by Deakins et al. (2003: 857) noted some improvement in data collection, but observed that “there is still a widespread lack of robust intelligence on the characteristics and needs of EMBs in most agency databases, which is a prerequisite for the development of support policies tuned to the specific needs of EMBs”.

### *b. An emphasis upon engagement*

Developing active approaches to engaging with ethnic minority communities in business is a clear outcome of the developments noted above. Considerable attention is now being accorded to developing relationships with ethnic minorities that may have been under-represented among Business Link clients in the past. The following are considered important elements in an engagement strategy:

- representation for EMBs across the Small Business Service (SBS) structures;
- an outreach strategy to engage EMBs;
- promotional approaches through media, focusing on those that are the most widely used by the ethnic minority communities;
- transparent monitoring and annual reporting of performance of individual SBS franchises with respect to EMB targets (Ram et al., 2002).

### *c. Developing an “integrated” system of business support*

A key theme highlighted by this review is the increasingly divergent experiences of ethnic minority groups in business. This is not altogether surprising given the different patterns of social, cultural and economic activities of Britain’s ethnic minorities noted in the 2001 census. However, the

different trajectories of ethnic minority businesses are contingent upon a variety of factors, not solely ethnicity.

For policy makers and practitioners, the key challenge is to redefine the mainstream markets for business support around the principle of diversity. The issue may be seen as one aspect of the heterogeneity that exists in the small business sector, which needs to be understood by private and public sector policy makers if finance and business support services are to be truly client-focused. Hence, policy makers need to recognise the diversity that exists between EMB groups, as well as between generations in some cases, re-evaluating the question of whether or not it is useful and/or appropriate to treat EMBs as a single category from the standpoint of access to finance and business support.

#### *d. Promoting sectoral diversity*

The need for diversification is a key theme emerging from this review, and indeed from much policy activity (see, for example, initiatives supported by the Phoenix Development Fund). Increased diversification and movement into higher value-added activities can be facilitated both by helping new enterprises become established in new sectors of activity and helping existing businesses adjust and/or upgrade. Such initiatives deserve further support in view of the need to shift the emphasis in EMB activity away from traditional sectors. As Ram and Smallbone's (2003) review of EMB policy demonstrated, a number of initiatives appear to successfully combine an approach to delivery that is sensitive to the needs and aspirations of members of different ethnic minority groups, with a sectoral focus, which is essential if the diversification noted above is to be effectively implemented.

New entrants need basic information on the likely prospects and pitfalls in various sectors. Even so, individuals' personal preferences and expertise must be catered for and prospective entrants into traditional sectors like the restaurant trade ought clearly to be encouraged if they have expertise in the field and are prepared to distance themselves from the competition by relocating or by offering a distinctive brand.

In a sense, then, the future health of EMB depends upon achieving a less skewed, more normal distribution between branches of economic activity. A key question is "What is preventing them from achieving this?" To the extent that the problem is attitudinal – lack of awareness, unwillingness to abandon the tried and trusted, lack of confidence about

competing in historically white-dominated spheres where there are few EMB precedents and role models – there is an obvious role for support bodies and networks in supplying information, raising awareness and confidence-building.

*e. Sharing good practice, dissemination and evaluation*

Although there has been considerable activity in the field of ethnic minority business support, there is still a dearth of knowledge on what constitutes good practice, a lack of systematic dissemination of key developments and very little independent evaluation. Ram and Smallbone's (2003) review of a range of initiatives targeted at EMBs that in one respect or another constituted good practice, addresses some of these issues but the authors readily concede that more work needs to be undertaken on the content and impact of such initiatives. Calls for evaluation were repeated by Deakins et al., (2003) and Ram and Smallbone (2003). Evaluation is an important tool for identifying good or appropriate practice and it can serve an important function in promoting policy learning (Sanderson, 2002: 13).

*f. Self-employment: an escape from poverty?*

As noted, earlier, the promotion of enterprise as a means of tackling disadvantage and promoting upward mobility is a key objective of government policy on small firms. However, in assessing this question, a number of points need to be borne in mind.

First, although some ethnic groups have much higher than average levels of self-employment, this should not be seen as an unqualified indicator of upward mobility. For instance, evidence indicates that many Asian small business owners are stuck in highly competitive and precarious market niches (notably, lower-order retailing); are under capitalised; work long hours, intensively utilising familial and co-ethnic labour; and are struggling to survive in hostile inner-city environments (see Curran and Blackburn, 1993; Ram and Jones, 1998, for a review of this evidence).

Second, the role that ethnic minority-specific enterprise agencies have played in encouraging sustainable self-employment in minority ethnic communities has rarely been subject to close scrutiny. Storey (1994) suggests that such agencies, like enterprise agencies per se, are probably more effective in achieving social objectives than the goals of job generation and business competitiveness. Such agencies have also been shown

to be hampered by a lack of clarity over objectives, unstable funding regimes, and concerns over quality (Deakins et al., 2003; Ram, 1998).

Third, placing undue emphasis on self-employment as a route out of social exclusion negates the importance of material factors to small business ownership. In the specific case of ethnic minority business owners, "class" resources are arguably of more importance than so-called ethnic resources. Class resources refer to the possession of capital and educational qualifications, together with related intangibles such as self-confidence, articulacy and communication skills (Light and Bonacich, 1988). These assets, rather than cultural traits, account for the differing experiences of ethnic minority communities in self-employment (Ram and Jones, 1998).

Overall therefore, our analysis shows that business ownership should not be regarded as a panacea for the social inclusion of ethnic minorities. At worst, business ownership can reinforce exclusion through the limitations of business and social ties.

## **Conclusion**

The UK has witnessed increased interest in ethnic minority entrepreneurship from scholars, policy makers and practitioners. This has resulted in a marked rise in theoretical sophistication, and increasing programme activity. The flurry of initiatives aimed at ethnic minority businesses illustrates, in the UK at least, a renewed interest in the potential of entrepreneurship to tackle persistent problems of economic disadvantage. It is important to caution against the excessive claims of some proponents of self-employment as a means of upward mobility. Nonetheless, it is clear that ethnic minorities do now figure in the activities of many business support agencies across the UK. However, the evidence of the effectiveness of such initiatives is still scarce and it is clear that the literature on evaluating this area of work needs to be developed further.

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## **PART IV – MIGRANTS, DIVERSITY AND THE CHANGING PATTERNS OF CITIZENSHIP**

### **I. Exclusive versus inclusive citizenship: the role of prisons in the governance of contemporary migration**

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#### **1. Penitentiary boom and the incarceration of migrants: a qualitative transformation?**

Data related to the prison population of major European countries have been showing for years now a tendency to grow dramatically, France being the only relevant exception. All European countries are building new prisons and increasing expenditure for “law and order agencies”, especially police and prison staff.

This goes hand in hand with the proliferation of measures meant to prevent or repress all that could disrupt the smooth process of public relations: for instance, the prohibition of mendicancy, curfews for teenagers, the widespread use of video-surveillance in public places and on public transport, the complementing of incarceration with electronic control, etc.

Moreover the rhetoric of detention has undergone a radical change: it is being depicted less and less as a means of re-socialisation and more and more as a means of incapacitating and neutralising offenders (Re, 2006). Thus, we can legitimately question whether there is a qualitative transformation of penal policies. In particular, we should explain why incarceration heavily affects migrant and foreign populations.

In the countries of massive immigration (Austria, Belgium, the Netherlands, Germany, Italy, Spain and Sweden), foreigners make up a relevant percentage of the prison population, often to the extent of explaining its total increase between 1992 and 2001. In those countries, the number of

**Table 1: Trend of prison population, total and foreign (1992-2006)**

Country	Prison population	N./100 000 citizens	(1992-2001) N. and N./100 000 citizens	Foreign prisoners (% of prison pop.)
Austria	8 766 (9.6.06)	105	6 913 (87) – 6 915 (85)	45.1 (01.11.05)
Belgium	9 597 (8-2006)	91	7 111 (71) – 8 764 (85)	42,0 (16.01.06)
Denmark	4 198 (17.10.05)	77	3 406 (66) – 3 150 (59)	17.5 (28.02.06)
Eire	3 080 (1.9.06)	72	2 155 (61) – 3 025 (78)	9,0 (20.04.06)
Finland	3 954 (1.4.06)	75	3 295 (65) – 3 040 (59)	8,0 (1.04.06)
France	52 009 (1.9.06)	85	48 113 (84) – 46 376 (78)	21,4 (1.04.03)
Germany	78 581 (31.3.06)	95	57 448 (71) – 80 333 (98)	28,2 (31.03.04)
England & Wales	79 642 (29.9.06)	148	44 719 (88) – 66 301 (127)	12,5 (30.06.05)
Italy	59 960 (31.12.05)	102	46 152 (81) – 55 136 (95)	36.6 (31.12.05)
Luxembourg	768 (1.6.06)	167	352 (89) – 357 (80)	75,0 (1.06.2006)
North Ireland	1 464 (26.9.06)	84	1 811 (112) – 877 (52)	0.8 (30.01.06)
Norway	3 048 (1.8.06)	66	2 477 (58) – 2 666 (59)	17.2 (01.08.06)
The Netherlands	21 013 (1.7.06)	128	7 397 (49) – 15 246 (95)	31,7 (01.07.06)
Portugal	12 870 (1.9.06)	121	9 183 (93) – 13 500 (131)	17,3 (31.12.04)
Scotland	7 212 (29.9.06)	141	5 357 (105) – 6 172 (122)	1.3 (01.09.04)
Spain	64 183 (15.9.06)	145	3 5246 (90) – 46 962 (117)	29,7 (21.04.06)
Sweden	7 450 (1.4.06)	82	5 431 (63) – 6 089 (68)	26.3 (01.10.05)

Source: International Center for Prison Studies  
([www.kcl.ac.uk/depsta/rel/icps/worldbrief/world\\_brief.html](http://www.kcl.ac.uk/depsta/rel/icps/worldbrief/world_brief.html))

foreign prisoners varies between about one third and almost a half of all prisoners, and this percentage is definitely higher than the ratio of resident aliens to native population. France and the United Kingdom, where the percentage of foreign prisoners is relatively low, should be treated separately: since these countries are, or were, characterised by policies

that made acquiring citizenship relatively easy,<sup>1</sup> especially for people from former colonies, data related to the ethnic origin of prisoners are more significant.<sup>2</sup> The British Prison Service, in its 2005 annual report, indicates that 22% of people jailed for the first time between March 2004 and April 2005 belonged to ethnic minorities. Since over 12% of convicts are foreign, about one third of convicts are not autochthonous, and this is similar to what happens in other European countries of immigration. In France (where in any event foreigners make up over one fifth of the whole prison population), it has been suggested (Palidda, 1999: 42) that if the ethnic origin of convicts were taken into account, the percentage of foreign convicts or convicts of foreign origin would be quite high, indeed higher than the percentage of Afro-Americans in United States prisons.<sup>3</sup>

Strangely enough, literature does not tend to correlate these data about the prison population with the immigration policies of various European countries. But it seems unrealistic to think that there is no link between the high rate of migrants' incarceration and their legal status. Often, and at best, foreigners are forced to live in very precarious conditions, which makes defending their rights quite hard or, at worst, they are given the status of illegal aliens, which prevents them from enjoying virtually any rights. The increasing number of migrants in European prisons goes hand in hand with the detection of a high number of illegal aliens living in the different countries and frequent "regularisations", although providing

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1. By way of comparison, in 2002 128 000 foreigners became French citizens. They were mostly children born in France of foreign parents who filed an "anticipated statement" when between 13 and 17 years of age, or who were already adults. Only in 14.6% of cases was citizenship acquired through marriage to a French national. In the same year in Italy, only 12 267 foreigners acquired nationality, in 91% of cases through marriage.
  2. Germany, where the detention rate of foreigners is slightly less than 30%, is a special case. Until 1 January 2000, acquiring German citizenship was relatively easy. Then new legislation was passed that requires: residence for at least eight years; respect for the liberal democratic system; sufficient means to live; and sufficient knowledge of the German language. As a result, the number of foreigners applying for citizenship has been decreasing. There were initially 186 000 applications, down to 127 000 in 2004, with a further diminution of 8% the following year. Some *Länder* are considering the introduction of even stricter requirements for applications by demanding very selective tests about language and civic education. As far as I know there are no data about the ethnic origins of German convicts.
  3. Palidda supports his claim with testimonies by French social operators, the official data reported by Tournier (2000), and those of his research undertaken together with Biko Agozino (1996).

some of them with a legal status, which is itself often precarious, do not significantly affect their condition as people without rights.

In this paper I intend to show how the policies of various European states are tending towards a strategy aimed at facilitating the presence of “irregular” aliens in their territories: foreigners who have managed to stay in their territories for a long period without entering the criminal justice system are periodically targeted by mass regularisation measures. I shall then argue that the rationale of this apparently paradoxical policy is a deep division in the relationship between state and population. Following Foucault’s account,<sup>4</sup> I shall argue that we are shifting from a phase when a state’s power depended on its ability to make the population productive and disciplined, towards a phase when a state can simply select its citizens. This shift involves the abandonment of inclusive strategies of acknowledging citizenship rights and the adoption of a conception of citizenship as a wall that excludes migrants from entering Europe. Changing its traditional role as a disciplining device, prison has thus become the hinge of these policies and is in fact operating to select migrants who are bound to be expelled, or who are bound to be forever “irregular”, and those who can initiate the convoluted path that will finally lead them to enjoy legal status and have access to an increasingly wide range of rights.

## **2. Production of illegal status and regularisation in the contemporary governance of migration**

### *a. The European phenomenon of periodic regularisation*

By regularisation we mean a state allowing irregular resident aliens to stay in its territory. Between the end of the Second World War and the economic crisis of the early 1970s, major European countries affected by immigration (Germany, France, Belgium, the Netherlands, United Kingdom) have

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4. I shall mainly draw upon the analysis carried out during 1977/78 (“Sécurité, territoire, population”) and 1978/9 (“Naissance de la biopolitique”). There, Foucault put forward the notions of “bio-politics” and “bio-power” as well as of “governmentality”. The former two notions connote a technique of government (and its instrument) taking the main dimensions of a population (birth and mortality rates, longevity, well-being, wealth, etc.) as artificially modifiable through specific policies fiscal or demographic, e.g. aimed at preventing vagrancy and mendicancy, etc.). Instead, the notion of governmentality identifies a model of government taking the market economy and *homo oeconomicus* as the only criteria for assessing its actions.

in fact managed the presence of irregular aliens through permanent regularisations. This policy has also been followed, up to the late 1980s, by southern European countries that have been targeted by migration flows, since the countries of northern Europe, the traditional destination of migrants, were placing strict limitations on the admission of non-nationals. Recently, southern European countries, too, have been enforcing increasingly strict constraints on foreigners' admission.

The use of regularisation programmes to manage illegal aliens has become widespread among European governments over the past two decades. Many European countries have become oriented towards a strategy based on restricting legal admission, the substantial tolerance (regardless of rhetoric) of high numbers of illegal aliens and cyclical waves of regularisations. As a result, in Europe today there is a mass of migrants without legal status and, therefore, without rights. According to the 3rd Report on Poverty in Europe by Caritas Europa (2006) these number about 5 million.<sup>5</sup> Moreover, in the European Union today, regularisation, itself an exceptional measure, has paradoxically become one of the numerically most relevant paths for migrants to acquire a legitimate status.

Over the last twenty years, a number of special ad hoc measures (labelled regularisations or "one-shot measures") have been taken to grant a residence permit only to those who can prove their presence within the national borders before a given date, antecedent to the measure. Sometimes these measures have been aimed at regularising almost all illegal resident aliens or have resulted, through the progressive widening of the range of beneficiaries, in the regularisation of all those having a job and no criminal charges against him or her. In France, where there have been few one-shot measures, there existed a system of permanent regularisation allowing anyone at any moment to acquire legal status by proving his or her presence in the national territory for more than 10 years: this was abolished in 2006.

In France there have been two regularisations – in 1981 and 1997. The latter started on 25 June 1997 when Chevènement, Home Secretary in the Jospin cabinet, issued a regulation defining the modes of re-examining foreigners in an irregular situation. By 28 October 1997, 140 000 irregular

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5. The estimation is fairly reliable as the Report is based on the research and fieldwork of the 48 national Caritas associations in Europe and of their regional, diocesan and parochial structures.

foreigners had applied.<sup>6</sup> Between 1995 and 1998 there has been one regularisation in Greece and two in Belgium.

The policy of the Italian Government in this field can be taken to be emblematic, probably because Italy has become a country of immigration in roughly the same period as when the idea of a one world market (of labour, too) was taking hold. In Italy, regularisation has undoubtedly been the main method for migrants to achieve the status of legal residents. According to the Italian Statistical Institute, by 1 January 1992, 648 935 foreigners appeared to be legally residing in Italy (ISTAT, 2004). In 1982, a regulation of the Ministry of Labour allowed about 2 500 people to be regularised, then in 1986, Act 943 allowed 118 709 people to acquire a residence permit, so that in 1987 regular foreign residents rose from 450 277 to 572 103 (an increase of 27.1%). Additionally, Act 39/1990 allowed 234 841 foreigners to be regularised. Through regularisation, therefore, in the decade just before the ISTAT survey, almost 357 000 people had become legal residents. From January 1993 to December 2002 the number of regular migrant residents increased from about 589 000 to about 1 503 000. The figures given are affected by the regularisation measures taken by the 1995 legislative decree 489 (the so-called “Dini Act”) and the legislative decree of 16 October 1998, adopted just after the passing of Act 40/1998, which allowed for the regularisation of about 246 000 and 215 000 migrants respectively. Finally, for the last regularisation, provided for by Act 189 of 2002, there have been 702 156 applications.<sup>7</sup> ISTAT estimates that about 650 000 migrants have regularised their status.<sup>8</sup>

Spain, where a massive arrival of migrants occurred in the same period, has managed the phenomenon in a similar way to that of Italy: few opportunities for legal entry, widespread illegal employment and a long sequence of regularisations, firstly in 1985, when the first immigration act was passed, and then in 1991, 1996, 2000 and 2001. With the last regularisation, passed in 2005, applicants had to prove that they had no

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6. *Libération*, 29 October 1997.

7. The figure is reported in [www.stranieri.it/sanatoria/san\\_dati.htm](http://www.stranieri.it/sanatoria/san_dati.htm), checked on 20 July 2005. In its programmatic document about immigration policy for the period 2004-2006, the Italian Government speaks of roughly 705 000 applications.

8. Data as of 1 January 2004 are in the document “La popolazione straniera residente in Italia”, issued on 24 March 2005, and available at [www.istat.it/salastampa/comunicati/non\\_calendario/20050324](http://www.istat.it/salastampa/comunicati/non_calendario/20050324). The document also contains an estimation of how many applications for regularisation have been accepted.

criminal convictions in their countries of origin, that they had arrived in Spain before August 2004, and that they had an employment contract for at least six months. The immigration legislation of 1985 has been amended three times over the last few years – Acts 4/2000, 8/2000 and 14/2003 – by introducing progressively stricter requirements for foreigners' admission and by limiting their rights. According to the Spanish Institute of Statistics (INE), these decisions resulted in over 1.5 million illegal aliens living in Spain by 2005. The number of those meeting the requirements for regularisation is estimated at between 500 000 and 800 000.<sup>9</sup>

*b. The restriction of the channels for legal immigration*

Continuous resort to regularisation and the huge number of illegal aliens should have led governments to make the admission of foreigners easier, firstly by allowing a tourist residence permit to be converted into an employment residence permit whenever a migrant currently in the national territory was able to meet the requirements for the latter. For a residence permit endows a migrant with rights the preservation of which requires regular employment and compliance with a number of duties. The richer this endowment of rights, the more effective it is in preventing immigrants from following the paths of illegality, especially when legal paths are not obstructed by too many constraints. Instead, the presence of illegal aliens in national territory makes it impossible to secure their basic personal rights, without forgetting that not only does the breach of laws on minimal wages, taxation and social security seriously harm states and workers, but it provides unfair competition against those nationals and foreigners who are working legally.

European states, rather than relaxing the requirements for admitting foreigners looking for employment, have a tendency to restrict the entry channels and to devise a system of visas that makes legal residence conditional upon an employment contract, thereby rendering the status of migrants uncertain and hindering their ability to settle in a country. Even more relevant is the restrictive policy adopted towards immigration for humanitarian and family reasons. In this field, a state's discretionary power should be limited by international legislation making humanitarian

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9. To these figures should be added about 400 000 whose status is uncertain because they are still waiting for a decision about a residence permit or its renewal. During the application period, there has been a long dispute between migrants' associations and the Spanish Government about the documents required to prove presence in Spanish territory since August 2004.

protection and the re-unification of families a right. With respect to the governance of these migration flows, some authors speak of “embedded liberalism”, meaning an institutional context that “greatly restrains individual states’ decision-making power, drastically reducing their ability to determine the size and the composition of immigration” (Zanfrini, 2004: 123). For European legal systems should consider themselves bound to acknowledge migrants’ right to join their families and right to political asylum, as laid down in Article 8 of the European Convention on Human Rights (ECHR)<sup>10</sup> and a number of international treaties concerning refugees, including the Geneva Convention. In spite of these rules, faced with the exponential growth of immigration for humanitarian and family reasons, European states have done everything to curb migrants’ right to enter their territory.

Directive 2003/86/EC on the right to family reunification (22 September 2003) is symbolic. Given the huge number of family reunifications that, according to some estimations (Zanfrini, 2004: 123) make up about a half of regular entries into the European Union every year, the directive tries to reduce the right to family unity provided for by Article 8 of the European Convention on Human Rights to a minimum. For it requires that member states should only acknowledge the right to reunification of the resident’s spouse or minor children. Moreover, the directive makes reunification conditional upon a legal stay of at least two years and allows states up to three years to accept an application and actually issue a residence permit. Also, states can limit the right to family reunification of children who are over the age of twelve, by making their entrance conditional on a test for their capacity for integration and requesting that “the applications

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10. See the European Court of Human Rights’ judgment of 26 March 1992, *Beldjoudi v. France*, Series A No. 234-A. Similar considerations can also be found in the following judgments: 28 May 1985, *Abdulaziz, Cabales and Balkandali v. United Kingdom*, Series A No. 94; 21 June 1988, *Berrehab v. the Netherlands*, Series A No. 138 – in this case the Court strikes a different balance depending on whether it is the first entry; *Moustaquim v. Belgium*, Series A No. 193) where the Court acknowledged that it is surely for states “to maintain public order, in particular by exercising their right, as a matter of well-established international law and subject to their treaty obligations, to control the entry, residence and expulsion of aliens”. However, it added that “decisions in this field must, in so far as they may interfere with a right protected under paragraph 1 of Article 8 (Article 8-1), be necessary in a democratic society, that is to say, justified by a pressing social need and, in particular, proportionate to the legitimate aim pursued”. It concluded that it is unjustifiable for states to omit a comparative assessment of the reasons for expulsion, and to reach a right balance between them.

concerning family reunification of minor children have to be submitted before the age of 15".<sup>11</sup>

The demotion of the minors' right to family unity to a mere factual situation to be treated with benevolence, is highlighted by the last regularisation measures passed or proposed by northern European countries. In order to grant a residence permit, the latter – which can be viewed as "mercy" measures – require that an "irregular" family has children whose life is very established in the host country. France, even though the current administration considers the experience of past regularisations to be a disaster, passed a regulation on 13 June 2006 that allows local authorities to grant a residence permit to foreign families whose children are born in, or have come to France, at a "very young" age and do not speak the language of their original country. Out of 30 000 applications, 6 924 applications made by the *sans papiers* have been accepted. This number is negligible if we consider that an estimated 200 000 to 400 000 illegal aliens are currently living in France. The German Government, too, is considering the granting of long-term residence permits to illegal foreign residents who cannot be expelled because they have children who are perfectly integrated within German society.<sup>12</sup> The German Government estimates that between 150 000 and 200 000 immigrants, mostly refugees from the former Yugoslavia who have been denied the right to political asylum, could be interested in this regularisation.

### c. *Governing migrants through criminal law*

The steady restriction of the already narrow channels for legal entrance and the continuous regularisations seem to suggest a political will to use the device of illegal residence as an instrument for migrants' socialisation. Statistical data and legislative developments provide quite clear evidence

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11. The latter rules, allowing states to nullify the already narrow effectiveness of the right to family unity acknowledged by the directive, have been the object of an application for annulment filed on 22 December 2003, by the European Parliament against the Council of the European Union (case C-540/03). The Luxembourg Court has endorsed the choice of European governments, arguing that the limitations are not discriminatory, and holding – quite surprisingly and, in my view, against the decision of the Strasbourg Court – that Article 8 of the ECHR does not create, for members of a migrant's family, not even minors, "an individual right to be allowed to enter the territory of a State".

12. The German Government is currently carrying out selective expulsions of illegal aliens, mostly involving singles and families without children.

of a tendency to prefer that foreigners look for a job or try to become integrated in society from an illegal position (hence one with no social security and very few rights) rather than from the status of holding a tourist residence permit, employment or chosen residence. European immigration policy seems to be more and more characterised by the use of illegal residence as a challenging test for many migrants trying to achieve legal status. The immigration policies' message seems to be that if migrants want to enter "fortress Europe", they must be ready to endure a period of illegal residence and, perhaps, to enter illegally.

Of course, the choice to govern immigration by regularisation is also very expensive in terms of reduced legality. Clearly, the presence of a relevant mass of "illegal aliens" (whether they arrived irregularly or are overstayers, that is, people who arrived legally but stay after their residence permit has expired) implies a high number of illegal actions (virtually any action taken by illegal aliens or by people relating to them, such as employers, landlords, etc.) and also a high number of criminal actions. For illegal residents cannot help but commit administrative infractions or criminal offences, simply in order to meet their basic needs. Besides being illegally employed, which itself breaks fiscal and social security laws, they often deal in illegal markets, falsify documents, fail to comply with injunctions to leave the national territory or not to enter it again, and so on.

The available data concerning Italy confirm the close link between incarceration and illegal residence. In fact, in its programmatic document about immigration for the period 2001-2003, the Italian Government claims that the report of 30 September 2000 indicated that the ratio of foreign prisoners with a residence permit to the total of non-European Union regular foreign residents, was roughly equivalent to the percentage of Italian or regular foreign prisoners over total population. The incarceration rate of non-EU regular foreigners was 0.10%, whereas the rate of the total regular population (that is, foreigners with residence permit and Italian nationals) was 0.07%. These data are indirectly supported by the security report of the Home Office (2005) which indicates that 28.12% of 611 000 people arrested during 2004 were irregular migrants, whereas the number of regular migrants is negligible.

Thus, if there exists a population with a statistical propensity to commit offences punishable by incarceration, it consists not simply of migrants but migrants without residence permits. To choose to manage migrants' access to legal residence status through the path of illegal residence/regularisation, is to choose to manage migrants through criminal law and

prison. The link between irregular residence and criminal behaviour suggests the basic question again: why do European legislators and governments prefer to put up with the social and political costs of criminality rather than promoting legal entry into national territory and formulating social policies for the resident population?

### **3. A new paradigm of governance and citizenship**

#### *a. From inclusive citizenship to excluding citizenship*

For about one hundred years, since the second half of the 19th century, social integration in Europe has been managed through a policy of “inclusive citizenship”, its features being a steady increase in the number of people entitled to citizenship rights, and a steady increase in the number of those rights. Today, European governments tend to adopt a policy of “excluding citizenship”: the alleged need to remove more and more social rights seems to lead to acceptance of the fact that a large group of people without any rights at all, a real underclass, can exist.<sup>13</sup> This shift is evident in the new relationship between states and markets and is closely related to contemporary migration phenomena, for the latter have transformed the population, that is, they are the privileged target of government action. Population is no longer a fixed given tied to a specific national territory, but a mobile resource that can be freely selected and manipulated (Santoro, 2006).

Any discussion of current European policies for integrating migrants and marginal social sectors must take one fact into account: European states are dealing with an ever-weaker inner sovereignty faced with the strength of the global market. Their power is more and more dependent on the degree to which their citizens invest in their own “valorisation”, risk their capital, take full advantage of the freedom of action they can achieve and take all available opportunities: in a word, on the degree to which they are opportunist and cynical in a context of scarcity that does not provide everyone with the same chances. But to govern by trying to develop these skills is almost a contradiction: it is to manage the unmanageable; to control what cannot and must not be controlled; that is citizens’ freedom,

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13. While the notion of an underclass has become a key term of criminological debate for Wilson (1987), it has illustrious antecedents, such as Sutherland and Cressey’s (1924) theory of differential associations, and Shaw and McKay’s (1942) theory of social disorganisation and the theories of cultural conflict.

which the production and circulation of wealth and the overall social exchange depend upon. The neo-liberal strategy to escape from this blind alley draws from economic and managerial strategies that treat freedom as a “cost” or a “risk factor”. This mode of governance requires more and more sophisticated, resilient and pervasive devices of surveillance: control becomes the key to managing “the risks of freedom”, with freedom being viewed as the cornerstone of the economic and social setup.

### *b. Taking care of the population*

Since the second half of the 19th century, with industrial development that was both sustained and unstable, and substantial growth of the population, western states have been developing new techniques of government. For “the power relationship with the subject or, more precisely, the individual, cannot be simply one of subjection, enabling power to take the subject’s goods, wealth and, possibly, body and blood, but power must be waged upon individuals in that they make up a sort of biological entity, that must be taken into account in order to use the population as a machine for the production of wealth, goods or other individuals” (Foucault, 1976: 193).

Thus, the well-being and boosting of the population became the key goal of government action, and this action was guided by a number of investigation techniques and pieces of scientific knowledge that developed and became widespread, and finally merged into modern statistics. From this perspective, the population was not a set of holders of rights, but neither was it a mere collection of useful workers. Rather, it was viewed “as a set of elements that, on the one hand, is connected with the general regime of the living beings (...) and, on the other hand, can be the target of organised intervention (through the mediation of laws, but also through a change of habits, of the ways of living and doing things, that can be achieved by means of ‘campaigns’” (Foucault, 1979: 79).

The origins of modern welfare and its specific way of working are rooted and defined in these transformations. For the apparatus of the welfare state was born with the emergence of the belief that, in order to manage population, child mortality must be actively reduced, epidemics must be prevented, sufficient medical structures must be provided and individuals’ living conditions must be improved, by enforcing rules about food, the management of environment and the organisation of towns. The welfare state is rooted in the gradually emerging need for states to undertake the management of population in order to secure the population’s well-being

and, through it, to increase its own economic and military power. Thus, the origins of state welfare are connected with the policies that became widespread throughout Europe since the second half of the 18th century under such names as *medizinische Polizei*, *hygiène publique* or “social medicine”. The direct link between the care of the population and state power clearly emerged with the hard time England – then the greatest colonial power – had with Afrikaner settlers during the two Boer Wars (1880-1881 and 1899-1902). Unsurprisingly, it was precisely in England that, at the end of the 19th century, the first structures of the welfare state began to emerge. In Bismarck’s Germany, too, an embryonic welfare state took shape under the pressure of Prussian aggression policies at the end of the 19th century. During the 20th century, this form of governing the population seemed to meet the power needs of states and manage workers’ demands. For this reason, it developed throughout Europe as a result of the two world wars and became consolidated as an essential device for economic reconstruction after the Second World War.

### c. *Selecting the population*

Thus, the origins of welfarism date back to a time when nation-states sought to establish their power in the domestic sphere and in the arena of international politics. This link seems to have vanished over the last two decades, when we have seen a remarkable de-nationalisation of politics and its institutions, replaced by market agents and forces. It is not simply a re-definition, albeit important, of the borders between the public and the private or between the political and the economic domains.

The very metric of political actions seems to have changed. The relationship between state and market has been inverted, for the latter is not and cannot be the subject matter of governance but has become the benchmark of government’s social usefulness (Foucault, 2004: 47-48 and 285-6). There develops “a state under the surveillance of market, rather than a market under the surveillance of state” (Foucault, 2004: 108): a *laissez-faire* where the market is no longer a principle of government’s self-limitation but “a sort of economic tribunal claiming to measure government action strictly in terms of economics and market” (Foucault, 2004: 202).

The privileged goal of government is no longer the care of the population but people’s freedom to act in the market. The creation of an environment designed for the market, rather than for individuals’ security, naturally leads people to think of themselves chiefly as market actors. Individuals are treated as entitled to the right to act as they wish and as incapable

of being disciplined, whereas the market becomes, and is made, the only balancer of individual freedoms; regulatory devices are required to “set free” and to guarantee that one is “set free”. This is not a neutral environment, for it produces the individual free market agent. Government intervention, much less conspicuous but no less pervasive than traditional methods, is meant to support market logic by making individuals responsible for their use of freedom and for valorising the “human capital” they are endowed with. Indeed, the regulation of a market-friendly environment brings about a form of *sui generis* discipline that operates by “fitting” individuals into the market. In this context, the state’s rationale is no longer individuals’ protection. What Karl Polanyi (1944) saw as the function of politics is turned upside down: it is not protecting individuals against the market but defending the market against the anxiety and insecurity that its operation creates for individuals.

Such a transformation entails profound changes, both political and cultural. As long as production and the market could develop through government intervention guided by “reason of state”, their development required and coincided with the development of a population’s well-being. State power was connected with its ability to develop policies of inclusive citizenship based on the steady extension of rights and social welfare to new sectors of the population. As soon as the market becomes the frame for state reason, it allows no more room for taking care of the population: inclusive citizenship tends to lead to a citizenship designed to select the population. Because of immigration, the population can now be manipulated without limits: by admitting migrants and expelling residents, a state can select a population that is only made up of actors capable of operating in the market (with no need to discipline members of its own predetermined population who turn out to be unfit for it) or it can set up an environment that leads them to see themselves as entrepreneurs. There is no more need to produce good citizens and useful self-entrepreneurs: they can simply be selected.

#### *d. Two paths for governing immigration*

A suggestion to practise a policy of selecting migrant populations, with the risk of, in fact, encouraging illegal rather than legal immigration, can be found in *the EU Economy: 2005 Review*. The European Commission argues that immigration can be a means of “greasing the wheels of labour markets”. For migrant workers “may ease labour shortages in areas in which nationals do not want to work and, as they are often more responsive than local workers to labour market conditions, they may smooth

the adjustment to regional differences or shocks. Moreover, increasing human capital through immigration would contribute to long-term growth, in addition to the purely quantitative impact of increasing the labour force. Indeed, attracting foreign *talent* is likely to become an ever more important challenge, in particular for migration policy" (European Commission, 2005: 12).

The EU Commission essentially suggests a double path for governing immigration. On the one hand migrant workers, mostly young people from northern Africa, Turkey and the Middle East, can increase the labour force for jobs nationals do not want to do. Since these immigrants come from countries where an uncontrolled population growth and high unemployment rates will provide an over-abundant workforce for the next decades, they are ready to adapt to whatever conditions are offered by the labour market. They are often young people who already know, when migrating, that they are going to add to the underclass, that is, that they are going to be irregular workers with temporary jobs in the illegal market of the agricultural sector (Bell, 2002), or in small firms within the building, house removals, cleaning and domestic assistance sectors. On the other hand "foreign talent" can enrich the human capital of the host state and should be lured by a substantial package of citizenship rights.

The suggestion of the EU Commission has been readily accepted in France where the new immigration law, passed in May 2006, provides for a new residence permit named "capacité et talents". This permit is for three years, is renewable (and extendable to family members), reserved for brilliant students, highly skilled workers, scholars and renowned people, who are allegedly capable of contributing "significantly and durably to the development of [the] French economy or the expansion of France in the world or the development of their original country". When introducing this new permit to the parliament, N. Szarkozy argued that France "has a right to decide how many immigrants should enter and to choose them according to its hosting capacity and interests", specifying that the goal is "to attract skills needed by the country". This statement clearly shows that the reference to the capacity of prospective legal residents to contribute to the development of their original countries is purely rhetorical. African political leaders promptly detected this. Abdoulaye Wade, the President of Senegal, protested by arguing that "they are going to choose trained people, such as intellectuals, engineers [and] physicians" and added: "I spend money to train people, but what I do is a bit absurd: I am training people who are going to develop the French economy". Alpha Blondy, too, the UN representative in the Ivory Coast, has criticised

this new kind of residence permit by arguing that it “brings us back to the times of slavery when merchants would choose the strongest people with the best teeth”.<sup>14</sup>

Together with a plan for the electronic control of borders, Great Britain is debating a score system meant to privilege the immigrants considered to be more “useful”. Italy has never developed policies capable of attracting third countries’ “talent”, but has adopted, since 1990, a migration flow control through yearly quotas based upon the needs of the labour market. Spain is moving towards a system similar to the Italian one, for it is debating a proposal to allocate residence permits by economic sectors, so as to favour the arrival of workers for the sectors most in need of manpower.

Since the population is no longer seen as a given resource that needs to be cultivated and taken care of in order to increase state power, the prospect is one of a society where politics no longer takes responsibility for individuals and groups, is no longer devoted to their development, but is limited to filtering and selecting them. The goal of government action then shifts from planning the activity of the population to the mere “strategic programming” of the conditions that make for the free competition of individual interests. In this context, irregular immigration, selective regulation and migrants’ uncertain status, are all optimal means of regulating a population that is always halfway between shortage and excess (Burchell, 1991), to govern a society where waged labour is considered to be an entrepreneurial activity and migrants’ mobility a subjective investment in one’s own capacity for self-valorisation (Foucault, 2004: 232-233 and 236). The mechanism of regularisation, followed by the concession of short-term residence permits, fits perfectly with this new model of order. These devices ensure that only if, and as long as one manages to be accepted, is one admitted into the population of rights’ holders. Thus, the typical path that migrants are required to take is characterised by a period of illegal residence and marginalisation during which individuals are tested. Only those who prove to be “good citizens”, that is, accept to live with no social security and no rights in totally precarious conditions, without causing any problems, are admitted to the rank of “regulars”, and are kept for a long time on the razor’s edge of short-term permits. Marginalisation within state territory is therefore institutionalised: marginality becomes

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14. The press reported the statements of the two African leaders in the days just after enactment of the law.

an organised social area towards which some sectors of the population can be directed; the means for governing immigration (and citizens considered unfit for economic competition).

#### **4. From illegal residence to criminalisation: prison as the filter of population**

##### *a. Governing through (migrants') criminalisation*

In the above picture, politics pulls back: its goal seems to be the security of a limited part of the population and to limit market-generated risks (but not the market itself – that, being global, is by definition outside of state control). The perception, supported by the ideology of globalisation, that the resources states can use for social purposes are inevitably scarce, made it acceptable that securing rights for native majorities entails the exclusion of migrants (and often that of “undeserving” nationals, too) from these rights. What most European voters care about is preventing the uncontrolled granting of citizenship rights to migrants, which they see as considerably reducing their own, traditional, social security benefits. European citizens, believing that social rights make up a zero-sum game, fear that granting migrants the benefits of social welfare may further reduce their own benefits, which are already being reduced due to economic and financial globalisation.

Referring to the United States, Jonathan Simon (1997) recently argued that there is no government of but only government through criminality: criminality would be used by supporters of conservative and restorative political programmes as a means to create hegemony and consensus. It might be more correct to speak of “government through criminalisation”, but with this qualification: Simon’s idea grasps the way Europe is trying to manage migrants today. For in this context, the reunification of society is becoming a major banner for the criminalisation of migrants (Melossi, 2002: 259) – a reunification carried out at the expense of migrants themselves, who are being used as resources of the productive system and, at the same time, excluded from welfare provisions. Most European citizens would never accept that access to citizenship rights may be governed by xenophobic or racist criteria: in other words, the idea that migrants should be excluded from social rights because they have black or yellow skin or “uncivilised” manners. Nor would they easily accept the purely self-interested (and subtly slave-trade-like) position that, since we have few resources available, migrants cannot ask us to give up our already endan-

gered allowances and health services, in order that they may achieve an acceptable level of social security. Such approaches are only appealing to minority, and often angry, sectors of European public opinion. Instead, to make respect for law the boundary of access to citizenship rights, seems an aseptic and politically-correct position: we cannot be sympathetic to those who commit crimes and often violent attacks against our persons and goods.

The illegal residence regularisation mechanism seems to fit well with the logic of the market and of political legitimisation. For migrants' illegal condition, besides facilitating their employment on ridiculously low wages, makes their criminalisation easier. When the lack of regular employment drives the migrant workforce towards informal work or unlawful, and usually more profitable, markets (especially in affluent societies, where indulging in "forbidden" pleasures such as drugs or prostitution is a way – not always stigmatised – of lessening the stress of working life) the "stranger-deviant" link tends to become a self-fulfilling prophecy. This vicious circle indicates exclusion with deep social roots. After all, the social roots of this construction are clear from the fact that the labelling operation is not managed by a social elite, but is accepted by traditional sectors of the working class, who have a tendency to see negative phenomena, such as drug-pushing and prostitution, in which migrants sometimes participate, as actually being a consequence of migration itself. Migrants arrive in a country in the hope that they can occupy some niche in the lawful and unlawful, formal or informal, labour market and that they can stay if they actually gain these places.

*b. Towards a dictatorship of the satisfied class?*

Loïc Wacquant (1999) speaks of a shift from the welfare state to the penal state in order to describe the ongoing transformation: with this shift, prison becomes the basis of a social integration that is more and more often managed through criminal policies. This definition, however suggestive, does not help us to understand the prospects facing us. Foucault's account highlights that a governmental technique that takes the market as the benchmark for its own assessment, is structurally inconsistent with any form of social redistribution, and cannot set the socialisation of consumption and income as its goal. On the contrary, it must be aware that the market needs inequality to function: inequality (of interests, of performance, of goals, of rewards, etc.) is the engine of competition and guarantees optimised allocation in the market.

In this respect, we see a real fracture in the theorisation of governmental techniques. While they have always been aimed at the neutralisation of social conflict, the emerging system of government oriented by market and competition needs conflict. It cannot be designed to reconcile individuals' interests but to enhance their diversity. This method of government creates a risky and complex environment, mostly pervaded by an unmanageable degree of illegality that cannot be totally neutralised, for it regulates the paths of individuals that should actually be left alone, for these paths are, in any case, followed in order to produce wealth. While security policies are developed to neutralise this environment, they must be limited to managing dangers rather than neutralising them, for neutralising dangers would limit the market's capacity for producing wealth. States are less and less able to define market boundaries: there is no longer a legal market and an illegal "black" market. The market is global and, as such, outside of individual states' power.

The risks of the actors in this market, of entrepreneurs, can only be socialised in the form of costs: the neutralisation of conflict is replaced by the logic of insurance (Ewald, 1986). The socialisation of risks can only be their privatisation; governmental techniques cannot make society itself take care of individuals' risks, but can only bring them back to the individual, in the hope that the market may provide everyone with enough income to buy insurance. Thus, the new system of government reverses the traditional centre-bound tendency of all governmental techniques, including disciplinary techniques, and diffuses risk management among individual agents.

The example of the United States, the first and most determined country to adopt the new guidelines of criminal policy, shows how all new criminal strategies, however confused and potentially inconsistent, are directed against whole social categories labelled as dangerous, and who are usually singled out by their social or racial marginality (Santoro, 2003). This should not come as a surprise: new criminal policies simply reflect what Peter Glotz (1985) called "the two-thirds society", where a significant but minority quota of citizens is excluded from well-being and the political and economic means for achieving it. Within welfare systems, the circuits of political and economic exchange have often systematically supported interests protected by organisations with strong bargaining power, rather than interests defended by associations without a strategic position or "widespread" interests lacking any effective protection. Moreover, for the last twenty years in Europe and for much longer in the United States, there has been the phenomenon of a mass migration of people from

continental areas with high demographic rates and little, if any, development, desperately seeking the advantages of belonging to a “prized” citizenship.

As J.K. Galbraith (1993) has argued, the guarantee of rights for majorities, together with the need for downsizing social security owing to the fiscal crises of the state, has turned affluent democracies into “dictatorships of a satisfied class”: the rich, the wealthy, the affluent have always existed but, while in the past they were a minority, they are now a majority. They are no longer forced to defend their privileges by promoting social mobility: they can afford immobility and can refuse to share resources with the new poor. Such historical-social conditions have produced, in all European countries, a more or less extended social subclass, often ethnically defined and deprived of legitimate access to available economic and social resources. It is depicted as dangerous and felt as a threat to social security and, because of its exclusion, to citizens’ physical and economic security.

### *c. Migrants’ incarceration and the dual penal system*

The criminalisation of foreigners could not occur without a high level of incarceration. In this respect, too, policies of governing immigration through “illegal residence/regularisation” are functional. For this makes it possible to over-represent foreign prisoners with respect to foreign offenders. If many migrants lack legal status, a high rate of foreign prisoners does not match an equally high rate of offences committed by foreigners. The mechanisms of diversion, probation and parole, that in different forms characterise sentencing procedures in all countries of the European Union, make it much more likely for an irregular migrant to be jailed, to serve a term or to wait for trial, than for a national or regular migrant, who usually is not jailed if charged with the same crimes or sentenced to serve the same term. Because of these mechanisms, prison sentences lead, in most cases, to actual incarceration for irregular foreigners. Since illegal migrants can hardly meet a number of requirements, ranging from possession of identity documents to having a legal stable residence and a job or an income, they are more likely to wait for trial in prison. This, in turn, means that they cannot begin to serve their term outside of prison; when in prison, the very same factors leading to the application of pre-trial detention, prevent the application of non-custodial measures of prison law.

This use of detention is a real tipping point in the history of the prison system. As a result, prison could change from being the institution used for disciplining and re-socialising troublesome individuals to becoming the central device for selecting the population. If, according to Foucault (1973) “the prison form of punishments matches the wage form of labour”, we might also say that the precariousness form (“Macdonaldisation”) of labour matches the expulsion form of punishment. Today, given the unlimited availability of the workforce provided by immigration and the haunting concern with the scarcity of resources available for social welfare, societies have decided not to give those who have committed crimes another chance for social life. With contemporary immigration, prison’s political function has changed: it is no longer supposed to produce good citizens whose judgment and behaviour can be relied upon, but to protect the allegedly doomed social welfare of those who are used to enjoying it. It is supposed to outline the borders of social citizenship, to raise fences defining the universe of “consumer-citizens”. And this is what prison has already begun to do.

As prison loses its re-socialising aims, migrants’ detention is emptied of any meaning other than to stigmatise them as a “dangerous class”. While, for European citizens, there is no other place to put offenders, for migrants such an “other place” does exist, and so it seems unreasonable to undertake the costs of keeping them in prison. If the only goal of imprisonment is a disabling one, to put migrants in such a position that they cannot harm the interests of honest nationals (and electors), then expelling foreigners achieves the same result. Once new ways of production and immigration have cut down the hungry demand for manpower caused by 19th century industrialisation, there remains no reason for keeping migrants within a state’s political space. Whereas until now, criminal policy had been forced to choose between physical suppression and the need for rendering individuals harmless, either through deterrence or re-education (or disciplining), it is now returning to an idea that had been lost after the 18th century’s failed deportation projects, and which was unknown in 19th century punishment: namely, expulsion from the political space. Expulsion can take two forms. It may be actual expulsion from national territory – and here prison plays a fundamental role because the change in its function, from a containing-detering-disciplining device to an instrument of the new dimension of criminal policies, is achieved to a greater and greater extent. But expulsion from the political domain may

simply consist of migrants being placed on the outskirts of the legal system too.<sup>15</sup>

Italy, in particular, is a very good case study to reveal the trends of new criminal policies because, as mentioned above, it happened to become a country of immigration at the very time when economic globalisation and its ideology were becoming dominant. Since the 1990s, a foreigner-specific system of executing sentences seems to be emerging in Italy, one different from and more afflictive than the system applying to Italians. This kind of "special law" that resulted, however, seems to be the unwanted effect of a form of executing sentences that was tailored to the re-socialisation model. It was the actual situation of migrants that led to a different penitentiary law for foreigners: according to this double standard, a foreigner with the same sentence as an Italian national is subjected to an excess of legal pain. In other words, criminal policies were formally characterised by an output of racism, in spite of the absence of any input of racism; this in spite of policies openly aimed at allocating benefits and burdens in absolute compliance with equality or even taking blindness to colour as their principle.<sup>16</sup> With the Immigration Act 189/2002, the output of discrimination has turned into an input of discrimination: migrants' supplemental pain is less and less a distortion stemming from their condition, and more and more the precise choice of legislators. Even though the rhetorical use of statistical findings endeavours to show that migrants are discriminated against because they are objectively "dangerous" and "undeserving" and not because they are "foreign", "different" and "coloured", and tries to preserve a universalist look and to formally respect the race blindness standard, it is increasingly clear that a special law for

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15. Indeed, sometimes marginalisation seems to be a function of illegal markets. This is clear from the stubborn practice of issuing expulsion injunctions against aliens whose forced repatriation is known to be impossible. These individuals end up in a sort of black hole: they cannot comply with the injunction but it will force them to live as clandestine and to enter the illegal market, whether they want to or not.

16. Article 1 of Act 354 of 26 July 1975, laying down the general principles of Italian prison law, establishes that penitentiary treatment, which is the activity aimed at the re-socialisation of convicts, "shall be absolutely impartial, without any discrimination relating to nationality, race, economic and social conditions, political views and religious beliefs".

migrants is emerging and putting them at a material and possibly formal disadvantage.<sup>17</sup>

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17. Act 189/2002 provides that it is an offence for a migrant to re-enter the national territory after expulsion or failure to comply with an injunction to leave (these two misbehaviours alone led to the arrest of almost 10 000 foreigners during 2005); the Act also establishes that foreign prisoners must be expelled when they have no more than two years left to serve, and that residence permits cannot be renewed to foreigners convicted of various types of offence.

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## II. Making citizenship an instrument for empowering migrants

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### Introduction

In today's modern states, citizenship indicates the symbolic reality of the equality of its members (Heater, 1999: 1). It signifies a bundle of rights and duties, connotes a sense of identity and implies a variety of civic virtues, so that those members are able to live in an environment of social cohesion (Kymlicka, 2000: 30). At the same time, by drawing a clear line for criteria of inclusion and exclusion, citizenship stands as the most important determining element of membership in a political community. Meanwhile, as often noted, various elements of uncertainties that modern states face today make it much more difficult for the institution of citizenship to deal with the paradoxes of inclusion and exclusion. Indeed, arrivals and stays of foreigners as migrants in a nation-state pose a question of this kind. As mentioned by Sassen (2002: 5), "these signal a deterritorializing of citizenship practices and identities, and of discourses about loyalty and allegiance". Without having certain rights and duties, without feeling a sense of identity, and without exercising various "civic virtues", can these immigrants easily become a part of the societies they live in? This is a widely debated, but unresolved question (İçduygu, 2005). Considering the challenges of international migration in the age of globalisation, for instance, some scholars emphasise a fundamental shift from national citizenship, which is a nation-based inclusion, to post-national citizenship, which is a more individual-based universal conception of inclusion (Soysal, 1994). However, the concept of post-national citizenship has been questioned by other scholars, who have contended that the individual-based universal conception of inclusion cannot be implemented and enforced without the consent of nation-states.

Having had the main problematic issues addressed in the debate on what to do with the citizenship position of immigrants in receiving countries, the main points of departure of the arguments in this essay are threefold: (1) more generally, citizenship constitutes a dynamic sociological and political basis on which we can analyse the dynamic nature of

integration questions regarding immigrants, which have given rise to the recent impasse of the state-centric approaches in integration policies and practices; (2) more specifically, there are four defining elements of the analytical operation of citizenship, namely legal status, identity, civic virtues, and social cohesion. In the age of globalisation and in the context of international migration flows, we have witnessed the increasing legitimacy crisis of such an operation of citizenship, whose manifestations have been observed in each of these elements as they are de-articulated and re-articulated in various migratory contexts; (3) more importantly, the modern notion of citizenship enables us to see that an empowerment of immigrants cannot be fully achieved without the implementation and dissemination of a more individual-based conception of inclusion that is the post-national understanding of citizenship.

In the context of intensified international migration flows, the issue of access to citizenship rights is of increasing global importance. Arguments in favour of facilitating access to citizenship by alien residents have been challenged on both ideological and structural grounds. The former has brought into focus the relationship between the formal and informal implications of citizenship and its practical consequences, including viewing citizenship as either a cause of or an effect of immigrants' integration into the receiving societies. The latter implies an extension of debate to, and a new emphasis on, new forms of citizenship such as dual citizenship, multiple citizenship, transnational citizenship, or post-national citizenship. Consequently if citizenship is considered important both symbolically and practically, what remains very crucial from these debates is the need for a critical re-thinking about citizenship.

## **1. Migration, citizenship and integration: challenge and opportunity**

After several decades of immigration in many countries around the world, the effect of naturalisation on the integration of immigrants in the receiving countries continues to be hotly debated. At the centre of the debate is the relative importance of naturalisation policies and practices and the significance of views on whether naturalisation is a cause of or an effect of the question of integration of immigrants. The cause side of the debate views the positive effect of liberal naturalisation policies and practices on the likelihood of immigrants' increasing incorporation into the social, political, and economic spheres of the receiving countries. Implicit in this position is the assumption that the desire to integrate into

the receiving country, and thus the demand for acquiring citizenship, can be manipulated by liberalising the naturalisation policies and practices. The cause side occurs when the optimistic assessment of the migration, citizenship and integration linkages is exemplified by the relatively relaxed naturalisation procedures of traditional immigration countries such as Australia and Canada.

Advocates of the effect side of the debate argue that more rigid naturalisation policies and practices may produce a stronger desire for immigrants, first, to become part of the social, political, and economic spheres of the receiving countries, and then, to try to obtain the citizenship of these countries. In the absence of liberal naturalisation procedures, it is assumed that immigrants who desire to obtain citizenship more than anything else will first seek and adopt methods of incorporation into the societies in which they live. The effect side of the argument notes the desire to integrate, and thus the attempt to incorporate themselves into the various spheres of receiving countries, as a necessary precondition for naturalisation. Indeed, this relatively conservative position tends to determine the naturalisation policies and practices of many European countries.

While these debates are taking place, the intensifying international migration flows continue to pose both challenges and opportunities for many nation-states and citizens who are involved in immigration. Today, many nation-states play host to thousands of foreigners who are the citizens of other countries. Thousands of people have multiple citizenship and live in more than one country; thousands are disenfranchised because they cannot become citizens in their country of residence. In short, many people have been faced with a crisis of citizenship because of international mobility. The anomalous status of citizens reveals that new approaches to citizenship are needed, which take account of a new understanding of citizenship: for instance, as Ong (2006: 501) noted, transnational practices enhance the capacity of immigrants to negotiate national space and to claim citizenship-like entitlements "as free individuals [who] confront globalised insecurities by making calculations and investments in their lives". The crucial question here is whether the current policies and practices allow for a progressive form of citizenship, and what parameters one can think of for this possible form, which is likely to be empowering for immigrants.

## **2. Migration as a space of assemblage for citizenship: processes of disarticulation and re-articulation**

In their seminal work on the matter of citizenship in diverse societies, Kymlicka and Norman (2000: 30) contend that citizenship, at an individual level, can be addressed from three different dimensions. Citizenship, first, implies a legal status held by citizens, which determines the range of rights and obligations available to them. A second aspect of citizenship would be identity, which implies membership of one or more political communities and, at the same time, comprises various particular identities, such as class, race, ethnicity, gender, profession, sexual preference, etc. Thirdly, citizenship is about a person's civic virtue, which can be defined as an asset for acting virtuously and participating in the life of one's political community. In addition to these three aspects of citizenship, Kymlicka and Norman add a fourth aspect, which differs from the former three aspects as it operates at the community level: social cohesion, which may include concerns about social stability, political unity and civil peace. These four aspects are deeply inter-related and through a dialectic or dialogical relationship they re-enforce one another. The combination of these aspects and the continuously changing nature of the interrelationship between them give citizenship its dynamic characteristic as a "status", a "sense of belonging", an "activity", and as a "social and political institution".

At the individual level, the interrelationship between the aspects of legal status, identity and civic virtue also has some very significant implications for the articulation of citizens' perceptions and experiences regarding their citizenship. For instance, the legal status defines the content and extent of citizenship and the rights and obligations held by citizens but, at the same time, the range of these rights and obligations provides a plethora of sentiments and moral considerations concerning their identities. All these sets of rights and duties shape the way identity is constructed and how citizens perceive themselves. Similarly, the presence/absence of legal rights not only shapes the feelings of citizens regarding their identities, but also determines the range of political activities available to them. In a similar vein, citizens' involvement in civic activities is strongly linked to the way they perceive their identities. Identity might operate as a motivating source for their civic activism. All these aspects cannot be viewed separately from social cohesion. The main ingredients of social cohesion, from a Durkheimian angle, can be identified as "shared loyalty and solidarity", which come into play as an outcome of some social-political elements such as rights, duties, identities and civic virtues.

In an ideal non-migration setting, these aspects of citizenship appear to be relatively more stable. The four elements of citizenship are somehow compounded and are practised somewhat moderately in the daily lives of individual citizens. For instance, the citizens may have a deeper knowledge of the scope of rights they are to enjoy and the duties for which they are responsible, and there is less likelihood for an ambiguity about the way they feel about their identities. They may act as active and responsible citizens in their particular communities. However, in a migratory setting, which transcends national boundaries, the migrants' perceptions and experiences regarding various aspects of their citizenship become relatively ambiguous, since their citizenship status, once determined by membership in a nation-state, becomes detached from its national basis. Whereas the political context, which formerly served as the basis for the formation of their citizenship status, was the nation-state they were originally a member of in the pre-migratory stage, this context transforms dramatically following their move to the receiving country. International migration operates as "a space of assemblage", whereby the four dimensions of citizenship become disarticulated from each other. Indeed, besides international migration, the destabilising impact of globalisation contributes to accentuate the distinctiveness of each of these dimensions (Sassen, 2002: 5). During this process of disarticulation, mutations occur, as Ong (2006) puts it, within each aspect of citizenship, and more broadly, within the whole notion of citizenship. Here we should not consider the process of disarticulation as occurring only within each of the different aspects of citizenship, but should also recall the deep interconnectedness of these aspects, and, as a result, the question of how these links among the components of citizenship are also affected.

The process of disarticulation involves the immigrants' assessment and questioning of their citizenship status in the new setting of the receiving country. This is most visible regarding the immigrants' perceptions regarding the legal status aspect of citizenship. In the new socio-political environment of the receiving country, the content and the extent of legal rights and duties held by migrants alter. In their new home, immigrants can no longer claim rights simply through the institutional arrangements of their countries of origin. The nature of the legal status, which indicates what one can do and what capabilities one has (Barbalet, 1988: 16) becomes subject to transformation. A new form of legal status comes into being, which is no longer tied to membership of a nation-state. The immigrant's new legal status is determined not merely by the national arrangements of the destination country. Immigrant groups can also claim rights and benefits associated with citizenship within the framework of

international human rights, which are vested in individuals rather than national governments, and empower them in relation to the government of the receiving state. So, while in theory, political rights depend on membership of a nation-state, in practice, new entitlements are being realised through claims of globalised contingency (Ong, 2006: 499). To put it more fully, full membership of a political community is not the sole criteria in order to be endowed with legal rights and duties. According to Urry (1999: 313), "citizenship has been conceived of within the west in terms of national risks that may face anyone living within a given territory, national rights that those possessing full membership should receive, and national duties that are appropriate for all such citizens of a society". He adds that the global flows have changed the ability of the states to mobilise nations in pursuit of societal goals. Today, he says, they have acquired more of a regulative function rather than holding an absolute power to set the rules. As Urry (1999: 314) says, "The hybridisation of cultures, the global refugee problem, the importance of travelling cultures, some growth of a global dwellingness, diasporas, and other notions of the 'unhomely': these configurations weaken the power of the society to draw together its citizens as one, to govern in its unique name, to endow all with national identity and to speak with a single voice".

Although the scrutiny of international human rights has increased rapidly in the age of globalisation, there are still problems with respect to the enforcement and implementation of these rights, since it is still the national states that are authorised to enforce and implement those rights. In her study on "guest-workers-turned-immigrants" in western Europe, Soysal (1994) found out that these immigrants have been incorporated into their host societies, not as citizens, but through "universal personhood", which supplants nationhood as the defining focus of citizenship. Soysal calls this new type of citizenship a "postnational" citizenship, one in which state sovereignty is contested but not yet replaced. The transition from citizenship rights to human rights, Soysal argues, is partial: nation-states are declining but not disappearing, yet no new structure has emerged to replace the nation-state.

In the migratory setting, it is not only rights and obligations that become disarticulated, but also identity. Although traditionally, identity came to be seen as synonymous with "national identity", given the impact of international migration this analogy is no longer easily applicable. International migration appears to be an area whereby the individuals begin to reassess their sense of belonging and attachment to their nation, state, and nation-state. At this stage, it is not only their membership in a

nation-state that shapes their perceptions of their identities, but various sources of identity other than the nation-state might also provide them some sense of membership. These sources of identity may include race, class, ethnicity, religion, gender, profession, etc. For instance, a female migrant coming from a rural society may not be allowed to work in the traditional setting of the country of origin, but the same person can cling to her gender identity after finding employment in the receiving country. Or, a Muslim migrant may become a more practising Muslim, that is, have a closer adherence to Islam, after his or her arrival in the receiving country. After arriving in Germany, for instance, a Turkish citizen of Kurdish origin may begin to feel more Kurdish than Turkish; or, after migrating to France, a Moroccan citizen with Berber origin may define himself or herself as being a Berber rather than a Moroccan. They may give over-emphasis to their existing identities, or suppress them. Hall (1990: 225) defines identity as “the names we give to the different ways we are positioned by, and position ourselves within, the narratives of the past”. In this sense, identities are both imposed and self-made. Migration plays a de-constructive role by positioning the migrant in a totally new socio-political environment and blurring the distinction between private and public realms. Within the migratory setting, various identities that were previously held in the private realm can find acceptance in the public realm. Indeed, the opposite is also possible.

Migration also problematises the disarticulation and re-articulation of the activity side of citizenship, that is, civic virtue. In most cases, there are fundamental differences between the civic traditions of the sending and receiving countries. When we consider that the majority of the migrant groups floating worldwide are moving from the southern and eastern parts of the world to the northern and western parts, it is possible to argue that the civic (civil society) traditions of these origin countries are not compatible with the civic traditions of the western (and northern) countries to which the bulk of migrants flow. Practically, this incompatibility becomes visible mostly in the homeland-centered civic activities of migrant communities in the receiving countries. It is very common for the immigrant communities to set up migrant associations or clubs in the destination countries. These associations are most commonly known as “home-town associations” and are formed by migrants from a particular community with common origins. There are ongoing debates as to whether migrant associations foster or hinder the integration of migrant communities in the receiving countries. Although the main aims of home-town associations are to promote support for the benefit of their communities and to assist in the adaptation of newcomers, the scope of their

activities has broadened extensively. Often they are very involved in homeland-centric political activities. Some of the projects carried out by these associations assist the domestic development of the country of origin. In addition to their functions of sending funds to the families of migrants in the sending countries, they may also organise and promote humanitarian projects, such as rotating credit; building schools and hospitals; providing informal insurance; providing sportive and cultural facilities, etc. In this sense, it is possible to argue that the scope of the activities of hometown associations has extended to encompass the growth and well-being of the destination areas. Through such activities, these associations also enhance the migrants' attachment to the community of origin, in a way making their integration to the receiving country harder.

On the other hand, as Kaya and Kentel (2005: 12) imply, today the broad networks of communication and transportation between the countries of origin and countries of destination play a significant role in the maintenance of migratory citizenship among transnational communities, which connects the citizens both to their homeland and to the rest of the world. Consequently, it becomes much easier for immigrants to live on both banks of the river in terms of their identities and civic virtues, even if not in the sense of legal status. This situation shows the challenges and opportunities to social cohesion posed by the notion of citizenship in the receiving societies.

This whole process of disarticulation, through which the content and extent of the legal status, identity and civic virtue aspects of citizenship are transformed, is followed up by a new process of "re-articulation". The legal rights and obligations of migrants, their sense of identity and their civic participation are re-formed in the new setting of the destination country. At this stage, citizenship has the potential to empower the migrant groups, though it may not solve all kinds of problems faced by migrant groups. We will next discuss what kind of a citizenship model can become an empowerment tool for the immigrants in the receiving countries.

### **3. Acquisition of citizenship in the migrant-receiving countries: empowering migrants**

The re-articulation of the various aspects of one's citizenship is strongly linked to the nature of the post-migratory setting in the destination country. It is possible to think of two different settings: (a) a setting in which immigrants have relatively straightforward procedures of acquisition of

citizenship in the receiving country, and (b) a setting in which immigrants face demanding or very tough measures of citizenship acquisition in the receiving country. It is obvious from the discussion above that the former setting has the power to re-articulate the elements of legal status, identity and civic virtues, which are essential for the enhancement of social cohesion and incorporation of migrants into the receiving societies. In short, the process of the acquisition of citizenship itself is explicitly empowering for immigrants, as it provides more than a legal status, involving various dimensions of identity-construction and the building of civic virtues.

In most migrant-receiving countries, the integration of migrants into mainstream society is seen as a prerequisite for granting citizenship to these groups. The main expectation of the governments or societies of these countries is that migrants should first become integrated into the society, fulfil their obligations by working towards the society's common good and should have a deep insight into the historical and cultural background of the country in order that they deserve the right to demand citizenship status. In short, from this perspective, citizenship is seen as an outcome of integration, rather than a tool for empowering migrant groups in the integration process. Moreover, this type of thinking considers citizenship mostly in terms of its legal status. Even if it takes account of the importance of the three elements of citizenship, namely legal status, identity and civic virtues, it does so by reducing them to a uniform notion of citizenship and by ignoring their dynamic interconnectedness. It assumes that the integration of migrants into the receiving society will provide them a set of rights and endow them with various entitlements so that they will feel like full members of the society. However, although acquiring citizenship status of the receiving country is of crucial importance to an immigrant, gaining formal access to citizenship is only one aspect. As Castles and Davidson (2000: 84) put it, "equally important is the extent to which people belonging to distinct groups of the population actually achieve substantial citizenship, that is, equal chances of participation in various areas of society, such as politics, work, welfare systems and cultural relations". Similarly, Higgins (1999: 290) underlines the essential distinction between the formal and substantive dimensions of citizenship. This distinction signifies that citizenship is not simply a status that endows citizens with a set of rights and entitlements, it is, at the same time, a status that enables people with the opportunity to realise those rights and entitlements. "All citizens formally possess civil, political and social rights, but not all possess the means of realising, and hence, enjoying the substantive benefits of citizenship" (Higgins, 1999: 290). Hence one can argue that an attempt to formulate a model of citizenship that is capable

of empowering migrants in the setting of the receiving country, must take the complex and multifaceted nature of citizenship into consideration, whereby its various aspects reinforce one another.

Similar to citizenship, the notion of empowerment is also a complex, multilevel construct that can be viewed as both a process and an outcome (Higgins, 1999: 303). At the individual level, empowerment involves a sense of efficacy, belief in personal abilities and feelings of greater control over one's own life. But, apart from these, it also implies a sense of connectedness to, and togetherness with, others, which gives it the quality of a society-level phenomenon (Sheilds, 1995; Lord, 1994; Wallerstein, 1992). Empowerment, from this angle, is thus directly linked to the four aspects of citizenship. Having access to formal rights plays an empowering role by providing migrants with a sense of membership and identity in the receiving society, but it is also through the practices and experiences of participation that migrants feel that they have a deeper sense of control over their lives. This is partly related to the civic-virtue aspect of citizenship. Participation helps to re-articulate a sense of community in the mindsets of migrants and, in return, they feel more empowered, as they start to feel that they are a part of the social fabric in the country they live in.

In short, this essay supports the arguments that citizenship, firstly, should not be seen as an outcome, but rather as a means for the empowerment of migrants in the receiving societies; and secondly, that empowerment can be achieved by taking all the inter-related aspects of citizenship into consideration, rather than dealing with the notion of citizenship as a monolithic entity. However, the question of what kind of a citizenship model is necessary in order that migrants are incorporated into the societal structure of the receiving country is not a simple one. The answer to this question reveals the necessity to address this question from various angles, in particular by taking the universality, duality (multiplicity), flexibility and functionality aspects of a new model of citizenship into account.

#### *a. Universality*

A model of citizenship that is capable of empowering migrants must inherit the principle idea that everyone is a citizen by virtue of membership in a nation, but before that, by virtue of being a person. Traditionally, nationhood has provided the moral resource for the conceptualisation of modern citizenship, given the fact that the roots of modern citizenship

can be traced back to the French Revolution (Turner, 1994: 159; Crowley, 1998: 167; Janoski, 1998: 12; Barbalet, 2000: 101). However, the conception of nation-based citizenship is insufficient to cope with the complexities related to globalisation. There is a need for an individual-based citizenship that is formulated with reference to the universality of human rights.

*b. Duality (multiplicity)*

The position of migrants in terms of their citizenship status poses an immense problem, not only for migrants themselves, but also for the sending and receiving countries. Therefore, the issue of dual/multiple citizenship is significant, both in terms of the naturalisation policies adopted in the migrant-receiving states and also for the empowerment of citizens. As İçduygu and Keyman (1998-1999: 53) argue, dual (multiple) citizenship, which is based on the premise of membership in a state as a legal entity rather than as a nation-based identity, assumes that individuals with different ethnic and national origins can co-exist in a single state under the meta-identity of citizenship. Therefore, the right to hold dual/multiple citizenship can help to secure the position of immigrants in both sending and receiving countries, without necessarily obliging them to have their former rights and freedoms withdrawn. It also has the potential to lessen the degree of moral disturbance that migrants might feel concerning their identities and their sense of belonging.

*c. Flexibility*

The naturalisation policies of the migrant-receiving states must have a degree of flexibility in order to meet the needs of different types and different generations of immigrants. For instance, those policies may distinguish between immigrants who are intending to settle permanently and migrants who intend to stay only temporarily. Similarly, those policies should take account of the fact that the transnational links of the first generation of migrants tend to be stronger than those of other generations. The civic virtues of first-generation migrants, which may be overwhelmingly home country-based, as they tend to maintain and revitalise the characteristics of their traditional identity can, with time, change due to their further adaptation and integration into the receiving country. For instance, first-generation migrants may have, and be expected to have, less knowledge about the social and cultural heritage of the receiving country. Similarly, an empowering model of citizenship must understand

that the identities of migrants can be multiple, and not necessarily nation-based. In short, the government of the receiving states should accept the principle that different practices of citizenship can be applicable to different types and different generations of immigrants (such as the debates on German citizenship in the early 2000s).

#### *d. Functionality*

If citizenship amounts to the four functional elements (legal status, identity, civic virtues, and social cohesion), if it is the foundation of a democratic society and if an active and cautious citizenry is essential to the practical functioning of democracy, we can conclude that there is a crucial need for more relaxed citizenship policies and practices, which offer more liberal naturalisation procedures (Içduygu, 1996: 158). In achieving this liberalisation, it is important to grasp that acquisition of citizenship is mostly a matter of pragmatic or functional choice rather than a normative, moral, and psychological commitment process.

### **Conclusion**

The debate over the issues of immigration, citizenship and integration is both long-standing and deeply rooted. This essay implicitly highlights that the debate regarding the linkage between the acquisition of citizenship and the integration of immigrants into receiving countries presents a dilemma: integration through citizenship versus integration for citizenship. In other words, should integration be based on the acquisition of citizenship or should citizenship be based on the result of integration? The view of integration through citizenship assumes that those immigrants who have acquired citizenship of the receiving country are mature enough to take an active role in the process of integration. However, the view of integration for citizenship presumes that the immigrants should pass certain tests regarding the extent to which they are integrated into the social, political, and economic spheres of the receiving countries, that evaluate their maturity to become citizens of those countries.

When arguing that the individual-level elements of citizenship – legal status, identity, and civic virtues – become disarticulated in the global setting of international migration, and that they then become re-articulated with universalising criteria of global transnational settings, it is possible to conclude that these three elements of citizenship have the potential to make the incorporation of immigrants more straightforward and comfortable.

Attention should then be paid to their contribution to the whole issue of social cohesion, which is the societal-level element of citizenship.

Finally, evidence from existing literature indicates that the citizenship position of immigrants is important, as it largely determines their social, political, economic and cultural participation in the receiving society. In other words, citizenship is something empowering for individuals. In this context, what seems to be needed for the better incorporation of immigrant populations is a new formulation of citizenship comprising the elements of universality, duality (multiplicity), flexibility and functionality. The post-national conception of citizenship more readily allows immigrants to re-articulate the dynamic elements of legal status, identity, civic virtues and social cohesion which, in turn, contribute to better integration of immigrants into the receiving society. Since, today, the granting and withholding of national citizenship is exclusively in the hands of the nation-state, it seems that there are consequences and responsibilities for the states of both migrant-sending and receiving countries, who are the main players in determining the rules and regulations of new forms of citizenship, such as a post-national one.

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### **III. Making space for Islam in Europe: exploring transnational practices of citizenship and belonging**

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#### **Introduction**

It has become very common, especially (but in no way exclusively) after 11 September 2001, to represent the world in Manichean terms as being composed of different civilisations. Indeed, by and large, media and public debates concerning Islam in Europe regularly allude to, or are indeed based on the assumption that if there is not exactly a “clash of civilisation” there is, however, attrition between a modern and secular society, where women enjoy freedom and have long acquired emancipation, and Islam, where Muslims are portrayed as persevering in their religious and anti-secular, therefore anti-modern, conceptualisation of society and gender relations, and are seen, if not as terrorists, then as warriors or conquerors of a foreign land. The issue of the exhibition of religious symbols in public received special attention, since many politicians, media and academics represented it as the symbolic and political kernel of the tensions between Islam or Muslims on the one hand and European political cultures on the other.

This way of representing the challenges arising in the process of “making space for Islam in Europe” has several pitfalls. First of all, it tends to forget that debates over the presence of religion in the public sphere are neither new in the West nor external to its Christian tradition. Secondly, analyses that frame contemporary debates around the place of the religious sphere in the public sphere, in terms of an opposition between Muslims and secular, western views, reinforce a Manichean approach, which does not contribute to understanding the complex issues at stake in contemporary Europe. This paper argues that the issue of public Islam in European public spheres is not limited to a tension between secular public spheres and religious agendas and identities. In fact, the public emergence of new Islamic agencies and subjectivities linked to transnational migration may shed light on a constitutive tension of democratic constitutions, which on the one hand refer to rights in a cosmopolitan

sense, claiming the universality of the human being and, on the other hand, function by erecting boundaries in order to be able to construct political communities. In this sense, the treatment reserved for the “outsiders”, such as Muslim migrants, represents a formidable mirror in which to analyse the moral consciousness and political self-reflexivity of liberal democracies.

This paper focuses on a politically and culturally neglected aspect of contemporary migration in Europe, that of its transnational dimension. The transnational dimension of migration, with its emphasis on migrants’ simultaneous engagement in two or more countries, makes it evident that many contemporary migrants do not wish to assimilate into the host nation, neither do they wish to return permanently to their country of origin. Rather, they develop loyalties, identities and political cultures which cross boundaries, and which challenge the classical conceptualisations on which the nation-state is based. Identity politics and transnational affiliations challenge the classic notion of citizenship by questioning the presumed principle that to be a citizen, one should also be a national of the country in which one resides. This also has several effects on the public sphere, which can no longer be conceived of as a nationally-bounded space of communication. As Nancy Fraser (2005) puts it, a key disjuncture in the current crisis of the nationally-bounded notion of the public sphere is represented by “the mismatch of scale between Westphalian-state-based citizenship, post-Westphalian communities of fate or risk (some of which are global), national and transnational (but subglobal) publics, and subglobal solidarities. Overcoming this mismatch requires institutionalising elements of transnational, quasi-global citizenship; generating concomitantly broad solidarities that cross divisions of language, ethnicity, religion and nationality; and constructing broadly inclusive public spheres in which common interests can be created and discovered through open democratic communication”.

The structure of this paper is as follows: I will introduce transnationalism and its relevance for the debate on citizenship, then I will address the ways in which the public emergence of transnational affiliations becomes particularly salient for young religious Muslims and Muslim women, who try to obtain recognition in the European public spheres. I will argue that the ways in which these claims are dealt with by most European states witness the attempt by states to constitute, rather than to preserve, a notion of national homogeneity, which is represented as threatened by the intrusion of foreign-generated symbols and identities. There are, however, other arenas through which we could observe the emergence

of transnational political subjectivities. Then I will address the emergence of a gender-based transnational public sphere. I will offer an example of Muslim women's participation in local, national and transnational public spheres, from which they try to develop new platforms for expressing their opinions and agendas.

## **1. Transnationalism as a new paradigm for society-building**

### *a. A new paradigm for new phenomena*

Transnationalism and diaspora have emerged in the last fifteen years as powerful new paradigms through which to understand contemporary social, cultural and political transformations affecting migrants and the societies in which they live. Together with the extraordinary changes in the technologies of travel and communication, multiculturalism and the emphasis on "cultural differences" may have played an important role in forging transnational and diasporic attachments. Glick Schiller, Basch and Szanton-Blanc, three anthropologists who spent many years researching Vincentian, Grenadian, Haitian and Filipino transnational communities in a global city (New York), provided a pioneering definition of transmigrants as "a new kind of migrating population ... composed of those whose networks, activities and patterns of life encompass both their host and home societies. Their lives cut across national boundaries and bring two societies into a single social field" (Glick Schiller, Basch and Szanton-Blanc, 1992: 1).

Transnational approaches, by stressing social, economic and political fields that cut across national boundaries, have forged new ways of studying migration and migrants beyond bounded relations to one place (see also Gupta and Ferguson, 1997), revealing migrants' lives in a more complex light. The conceptualisation of migration in transnational terms allows an understanding of migrants as no longer caught in the trap of having to stand between either assimilation or nostalgia and the "myth of return" (Anwar, 1979). Rather, it is argued, migrants are more and more able to construct their lives and maintain their membership in two or more countries.

There have also been radical changes in the social, economic and demographic domains which have shaped the new migration to Europe and elsewhere (Koser and Lutz, 1998). The shift from a Fordist to a post-Fordist industrial production, the move from a multinational to a transnational flexible system of accumulation (Harvey, 1989), the withering away

of state welfare systems and other domains, the gap in the demographic configurations of western countries with respect to the rest of the world, and finally the transformation of information and communication technologies (Castells, 1996) are some of the salient features of this epoch which impinge upon the character of contemporary migration.

Indeed, there is overwhelming consensus on the fact that the general crisis of the nation-state in cultural, economic and institutional terms, may be seen as both a cause and a consequence of transnational forms of lives. Central in the current impasse of the nation-state is the challenge that transnationalism brings to one of the key structures of the modern national state, that is a unitary and homogenous cultural and religious identity anchored to a territory, as a key of access to citizenship. Transnationalism could be seen metaphorically as a dimension of life across borders, occasionally taking the shape of a form of refusal to assimilate into a national state, and simultaneously as a strategy aiming at fighting against, or containing, the exclusionary effects of barriers and boundaries. In this sense, the transnational dimension of migration could be seen as a sort of “third space”, to borrow from the well-known metaphor of Homi K. Bhabha (1994) with regard to post-colonial identities, where subjects retain a form of power which takes the shape of resistance to both exclusion and assimilation.

Transnationalism is not only a “lived experience” but it has operated as a theoretical device, which has had the merit of challenging what has been denoted as a “methodological nationalism” within the modern social sciences. The latter have generally tended to perceive and therefore to reproduce the boundaries of the nation-state as the main socio-spatial contexts in which economic, cultural, political and social processes occur (Vertovec, 1999). “Transmigrants” and their demand for cultural recognition, together with the new post-national character of plural societies, are increasingly celebrated as expressions of the end of the national character of the state. According to some scholars (for example, Soysal, 1994) post-war immigration policies in many European countries have de facto challenged the national character of citizenship. On the one hand, migrants in Europe have been increasingly granted social, civil and certain political rights that make them post-national citizens. Moreover, the nation-state, while controlling the organisational aspects of these rights, is no longer the sole authority on which the granting of such rights depends. For example, transnational and international organisations and universalistic appeals to human rights constitute new arenas in which rights are increasingly demanded and membership defined (Soysal,

1998). Moreover, as we shall see later, the “local” scale is also proving to be crucial in shaping migrants’ feeling of belonging and membership, while also assuming increasing importance in the politics of migration, sometimes in opposition to national laws and regulations.

*b. Transnationalism and cultural and religious pluralism*

Transnationalism is a multidimensional phenomenon which, along with other variables such as class, religion and ethnicity, differs according to generation and gender. We should be able to see the different ways of being and belonging to transnational fields and to address the implications of these diversities for a reformulation of citizenship. Transnationalism can refer to a dimension of life that cuts across borders, mainly by way of recurrent physical returns by migrants to their countries of origin. First-generation transnational relations may represent a way for migrant women and their families to optimise symbolic, economic and social resources across countries in a context of material and legal precariousness (Salih, 2003), or perhaps a strategy of flexible accumulation of resources and status, which results in flexible citizenship (Ong, 1999). These may involve the construction of transnational religious spaces (Mandaville, 2003), transnational ritual spaces (Gardner and Grillo, 2002), transnational kinship relations (Fog Olwig, 1993), transnational trade spaces (Riccio, 2000), or even transnational political spaces. We should not, however, think about transnationalism as always entailing acts of resistance towards the nation-state. It is crucial to grasp the ongoing power relations underpinning the formation and reproduction of states, markets, and gender-based identities. Women, for example, sometimes get trapped into a transnational sphere of “reproductive activities”, since their traditional female roles require them to actually engage in continuous transnational movements to care for their transnational families. Grandmothers are often required in Europe, in order to take care of grandchildren when their migrant daughters are busy, often themselves working in the childcare sector within European families.

But transnationalism does not always involve physical movements or returns. It could also refer to identities, loyalties and affiliations, which extend beyond national or local borders. For example, identification with a global community of Muslims, also facilitated by new communication technologies, could give birth to a transnational imagined community of Muslims around the world. In this context, what seems to have gained prominent attention in the debate about transnationalism, after the first rather celebratory atmosphere that reigned in the course of the 1990s

amongst transnational scholars, are issues related to the links between transnationalism, incorporation and strategies or practices of citizenship at local and national levels. Indeed, while earlier scholars, also wishing to counteract the methodological nationalism that dominated much of the social sciences, tended to emphasise that transnationalism was a form of resistance to nation-states' hegemonic practices, more recently scholars have been engaged in demonstrating that transnational ways of being and belonging are not, in principle, incompatible with some kind of incorporation into the receiving society. Rather the opposite, for many migrants and their offspring transnationalism could also emerge or assume a different form, as a consequence of stability and integration in Europe.

Moreover, transnationalism could also be supported or even fostered by many sending states, who may be willing to promote diasporic policies in order to capitalise on their diasporas, by favouring, at various levels, simultaneous incorporation of their nationals abroad. Glick Schiller and Levitt (2004) argued that the aim of transnational migration scholarship should now lie in the "reformulation of the concept of society", since transnationalism challenges basic institutions such as the family, citizenship and the nation-states. National boundaries are indeed bypassed, crossed and extended by the lives of transnational migrants. However, the "incorporation of individuals into nation-states and transnational connections are not contradictory social processes. Simultaneity is a possibility that needs to be theorized and explored" (ibid.).

In this paper, transnational potential is analysed in terms of the challenges that cultural and religious pluralism, usually attached to transnational identities, pose to the classic conceptualisation of citizenship in Europe. Indeed, transnational identities and affiliations have challenged citizenship in various ways, not least by questioning loyalty to one nation and culture (and, for that matter, to one religion) as a main or exclusive prerequisite for accessing rights. Moreover, claims for recognition of cultural and religious differences shift the boundaries between public and private spheres, expanding at the same time the arena of the public beyond the territory of the host state. As Eickelman and Salvatore argued: "Some ideas of public can be intensely local; others can be transregional and transnational, expressing multiple ideas of group and community. Participation in contemporary public sphere[s] implies an openness and at least implicit pluralism in the sense of a capacity to act – or at least express beliefs – independently from state or ruling authorities" (Eickelman and Salvatore, 2002: 99).

The cultural, political and social implications of these transformations of citizenship translate into blatant tensions when the subjects of claims are Muslims, who are represented in public and popular discourses as responsible for most cultural and social conflicts in contemporary Europe. Muslim religious identities and claims are seen as colliding with or even incompatible with classic notions of liberal democracy in Europe.

In the aftermath of 11 September 2001, the issue of loyalty to the host nation-state has regained momentous weight by becoming a paramount requisite by many European nation-states in the process of redefining their citizenship laws. In the meantime, the exhibition of cultural or religious difference, or the attempts, by young Muslims, to show their religious identity by making it publicly and politically visible, has acquired the sinister meaning of threats to the national, moral, and juridical order and cultural values. More specifically, the affiliation or public expression of Islamic identity has been perceived as tantamount to a challenge to a supposedly homogeneous European nation-state and its allegedly secular nature.

However, this kind of dichotomic representation creates the illusion of self-represented homogenous and harmonious nations threatened by another, presumably homogenous population, represented in this case by Muslims. Yet, as Alain Touraine (1997) reminds us, the nation-state has not been historically able to make the state coincide with the nation, particularistic interests and privileges have not been abolished in the name of the universalism of law. On the contrary, the nation-state was created from fragmented societies and often resulted in a huge distance between central power and local life and in a sharp separation between the private and the public spheres enforced by the law of secularism. In fact, historically, the classic problem of the modern nation-state has been how to reconcile the universalist conception of the subject as a neutral and abstract citizen, with the differences and particularities embodied by a fragmented people.

In this context, according to Seyla Benhabib (2004), transnational migrations bring to the fore, or shed a new light on a fundamental problem that concerns liberal democracies. That is the balance between claims to self-determination on the one hand, and the adherence to the universal principles of human rights on the other. The modern challenge consists in redesigning the democratic practices embedded in citizenship, without returning to the illusions of the homogeneity of the nation. Nationalism is an ideology that confines and represses complexity and heterogene-

ity. As Benhabib argues, liberal democracies have not been characterised by homogeneity and cohesion of collective identities, as we are usually inclined to think.

The politics of exclusion or the management of the outsiders is always associated with the need to discipline or prevent any form of innovation, challenge or reform within the boundaries of the restricted community. In this sense, we could see the disciplining or the refusal of Muslim identity claims as an attempt to construct and reinforce the notion of a homogeneous community, while in fact Muslim claims and identities do not represent an historical exception to the complexity and heterogeneity of liberal societies. However, transnational migration poses a new challenge to the idea that citizenship could be linked to the sense of belonging to a unitary ethnos. National citizenship is confronted by a fragmented citizenship, embodied by new agencies and political subjectivities, which want to access rights without assimilating into a presumably homogeneous population.

## **2. Transnationalism and Islam in Europe**

### *a. Muslims in Europe: a secular/religious dichotomy?*

Discussions on Islam in Europe, or rather on the compatibility of essentialist notions of Islam and Europe, as it were, have assumed generic importance, as witnessed by the fact that gender-based physical practices such as veiling have become prominent in European political and popular debates. Most of these debates seem to emphasise that the issue at stake is the extent to which European societies should allow challenges to the allegedly secular nature of their institutions and political culture. This tension is often represented in terms of a clash between modern, secular outlooks, embodied by the histories and institutions of European nation-states, and religious – often overlapped with “fundamentalist” – groups and projects, which are construed as threatening the former with their craving for recognition in the public spheres.

One of the main drawbacks of this depiction is that it seems to forget the ways in which these kinds of tensions have been historically (and are currently for that matter) internal to both Europe and the West at large. Debates over the presence of religion in the public sphere are neither new in the West nor external to its Christian tradition (Asad, 2003).

A glimpse into the period preceding the political constitution of the United States, for example, provides an interesting comparison with the current debate on the integration of Muslim migrants in contemporary Europe. These years were characterised by harsh conflicts amongst the multifarious immigrant and religious Christian communities, especially members of the Anglican Church and Catholics who had settled in the country, with the Anglicans comparing their “nativism” to the “outsiderness” of the newly arrived migrants. Discourses that articulated the religious, cultural and linguistic differences of these (mostly European) migrants strikingly resemble, in hierarchical terms, contemporary discourses on immigration in Europe. In 1753, Benjamin Franklin was writing to a friend on the impossibility of assimilating the Germans who had, by that time, settled in Pennsylvania, complaining about the fact that the efforts of the German communities to keep their language and their culture would lead them to contaminate the authentic character of the country.

Those were the years of an intense, and at times, violent confrontation on the place that religion, especially the Catholic religion, was to occupy in the public (Protestant?) sphere. The Irish Catholics who had first settled in Maryland and who were at first tolerated, were obliged to convert to Anglicanism after the English Revolution in 1688, lost their right to vote and were confined to practising their religion in the private sphere. The aversion of the Protestant Church towards Catholic immigrants, especially the Irish and Germans, continued throughout the 19th century and was particularly intense when, around the first half of the 19th century, the issue of religious teaching in schools arose in several states. A “secular”, “objective” reading of the Bible at school was proposed by the Republican representative, who considered the Bible to be a text open to different interpretations and points of view. This project was firmly rejected by the Catholics who, on the other hand, wanted confessional schools to be financed by the state (Lacorne, 1997).

A second problem with the secular-religious dichotomy is that depiction of Muslims as a homogeneous community in terms of culture, traditions or attachment to religion, is far from being realistic. As much literature has shown, most Muslims who live in Europe are either not actively practising religion or are unconcerned with it altogether. Surveys conducted in France have concluded that almost 68% of Algerians declared they did not have a religion. Most youth of Maghrebi origin admit to practices concerning sex, marriage and leisure, which would be judged as anti-Islamic by the previous generation (Zubaida, 2003). When it comes to the issue of the veil, research has shown that out of 2 million female students

in France, for example, the *hijab* is of concern to between 1 000 and 2 000 students (Tevanian, 2004; Zubaida, 2003).

We cannot deny, however, that the attempt to retrieve an “authentic”, “pure”, “untouched” cultural identity is invoked as an antidote to westernisation and globalisation and may be particularly important amongst Muslim migrant women and men who reside in Europe. The global rise of a discourse and political project which portrays Islam as an arena untouched by western globalisation and colonialism and as the only “culturally authentic” alternative to western modernity, is very often proposed in order to understand the increasing role of Islam in cultural identities among migrants in the Middle East. In Europe, we can observe a similar trend. The numerous Internet sites and TV satellite broadcasts that provide suggestions on how to lead an “authentic” Islamic life in the West bear witness to this process. One interesting French site is *Musulmanes et Fières de l'être* ([www.musulmane.com](http://www.musulmane.com)), where there are numerous suggestions and articles on themes ranging from how to raise children in an Islamic way in the West without losing the Islamic identity, to how to follow other Islamic dictates in matters such as marriage, divorce and related matters.

Many Muslims, both first and second generation, responded to their social and cultural experiences of displacement and marginalisation in Europe by adopting Islam as an alternative to assimilation and cultural homogenisation. However, while this, in several ways, can be connected to and indeed stems from Islamic transnational resurgence, for the majority of Muslims in Europe Islam represents self-determination which does not aim to reject European society and political cultures. Islam can become, for example, a terrain where one can gain self-esteem from the fact of economic marginalisation. It is the opinion of several scholars that the vast majority of the organised forms of Islam in Europe work within the framework of the secularised societies of which they feel part, and in which they want to be recognised as religious minorities. This contributes to fostering a real, liberal, secular society, in contrast with a concept of *laïcité*, which pretends to embody the neutrality of the state, but in effect often reiterates the majority culture or religion. In this context, some Muslim constituencies have proposed a notion of the “secular” not as a space void of religious symbols, but rather as a space for cohabitation of different religious traditions (see, among others, Cesari, 2002).

However, as stated earlier, it would be highly misleading to present Muslims in Europe as a homogenous religious or cultural community. On

the one hand, one might argue that a process of universalisation and transnationalisation of Islam is taking place amongst Muslims in Europe. It has been suggested, for example, that the neo-communitarian version of Islam adopted by the second generation is neo-universalistic in nature when compared to the deep ethnic legacy ingrained in their parents' Islam (Khosrokhavar, 2002: 61). On the other hand, the idea of an imagined community as a transnational Umma, or a trans-ethnic Islamic identity, is far from representing the only or the most important process at work. According to Cesari, for example, the "question of whether the religious group should reinforce or transcend ethnic bonds has become the most contentious issue surrounding organised Islam in the West. This debate has given rise to a fierce competition among religious leaders seeking to impose their own conception of the community in different European countries" (Cesari, 2003: 257-258).

### *b. The veil and the public sphere*

To be a Muslim in Europe is far from having a neutral and shared identity. The debate concerning what it means to be a Muslim in Europe reveals a battlefield of opposing discourses about authenticity, tradition and modernity, often revolving around women's bodies.

Contentions may arise amongst Muslims due to differing political and social views on the social, cultural and political place that Islam should have in a non-Islamic society. Through the diverse ideologies of Islam, larger arenas of conflict are expressed, which can be generational, political, gender-based and ethnic. More often, they bear witness to divergent ways of conceiving oneself as Muslim in a non-Muslim place, and thereby reveal conflicting ideologies of place and space.

At stake in these contentions, are very often the definitions of the boundaries that mark belonging to a community or national group. In the Middle East and North Africa, secular-oriented women's movements have historically been accused of threatening the cultural homogeneity of the national community by introducing western models and behaviour, and therefore they were and still are labelled by the powers-that-be as culturally inauthentic. For Muslims in Europe, the boundaries of the community are more in danger of being jeopardised and the disagreements concerning "authenticity" may be amplified. In this context, certain Islamic symbols may be actively chosen or imposed on women as crucial markers of religious and cultural difference. And yet, for many young Muslim women, the *hijab* could be chosen simply as a symbol of

piety and modesty, sometimes in open conflict with the previous generation. In other cases, wearing a *hijab* means making public the identification with a transnational community of young, modern and educated Muslims who claim full compatibility between religion and modernity. In these cases, we could speak about a global veil, which is seen by those who don it as the embodiment of an Islamic engendered modernity or, in some cases, an Islamic fashion (Killian, 2003).

The question, however, remains as to why the veil has become one of the most significant and contested markers of the tensions linked to making space for Muslims in Europe. One attempt to explain this over-dramatisation of the headscarf issue is that Muslim gender-based cultural politics uncover the ambivalences of several of the notions that sustain the classic concept of citizenship. For example the ideas of equality that individuals supposedly share in a public sphere that neutralises the gender differences or ignores the notion of visibility/invisibility of the woman's body or the idea that a sharp distinction could be made between private and public spheres. Moreover, it could be argued that, in continuity with colonial narratives, in discussions over the headscarf the woman's body is reiterated as the quintessential public space on which the boundaries of modernity, tradition, authenticity of the national or religious "communities" are drawn.

According to Turkish sociologist Nilufer Gole, for example, "The public visibility of Islam and the specific gender, corporeal, and spatial practices underpinning it trigger new ways of imagining a collective self and a common space that are distinct from the western liberal self and progressive politics" (Gole, 2002: 173). Indeed, the wearing of the *hijab* as a gender-based body technique brings to light the contradictions of the liberal notion of the public sphere conceived of as a gender-based blind space of equality and freedom between subjects, by reasserting the body publicly as a central symbolic locus of the interdictions and regulations that should govern gender relations in Islam. Islamic religious gender-based cultural politics and body techniques push towards a redefinition of the public/private distinctions on which liberal European nation-states are based. In France, for example, by claiming the right to wear the *hijab* in schools and public offices, Muslim women in Europe are attempting to simultaneously express their gender, as well as their religious and French identities in the public spheres and claiming recognition of their multiple identities. In this context, the headscarf makes even more visible the heterogeneous, fragmented and multiple nature of French post-colonial identities and the precarious and unstable nature of French national identity. The ban on

headscarves in public schools could be therefore seen more as part and parcel of the historical hegemonic attempt to construct cultural homogeneity and cohesion rather than to preserve it.<sup>1</sup> It has been argued, not only in France, but also in other countries such as Germany, that “conservative politicians have used the visibility of the Muslims who wear headscarves or recognisably Muslim dress as a political issue in ways that make particularly visible the precariousness of the notion of ‘German’, its ambivalent links to a disavowed Nazi past, and the threat of the Muslim as the unassimilated other” (Pratt Ewing, 2003: 327).

### **3. Young Muslims: overcoming the “minority standpoint”**

As already mentioned, transnationalism is only partially concerned with recurrent physical returns to the country of origin, with the problem of how to keep a cultural identity alive or with how to optimise resources or status across countries. Young Muslims in Europe are, in fact, concerned with the re-formulation of citizenship in Europe, rather than with involvement with their parents’ countries of origin.

In the case of young Muslims born and brought up in Europe, the culture and religion of origin are far from dissolving, but also far from constituting a linear and static reference point. Rather, they go through a process of re-formulation and change in a variety of directions. Certainly, one among other trends that can be observed among second-generation Muslims, is a sort of disenchantment with universal values, including religion, leading to the development of individual and secular forms of identification with Islam, detached from, or even in conflict with, that of their parents, an attitude which they share with their native Catholic peers.

Farhad Khosrokhavar (2002), analysing the young generation of Muslims in France, suggests three other ways in which they relate Islam to their everyday lives. For some of them, Islam can become a way of coping with, and often reiterating or reinforcing their exclusion from, a society

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1. On 23 September 1789, Clermont-Tonnere pronounced a famous discourse in which the secular principles of the French republic were clearly defined: “We have to deny everything to the Jews as a nation, and grant the Jews everything as individuals. (...) One could argue [that] they do not want to be so. Well! If they do not want [it] they should say it and we should ban them. It is repugnant the idea that within the state there could be a society of non-citizens and a nation within the nation” (quoted in Lacorne, 1999: 25). In this sense, we can see the self-construction of a homogenous nation as an enduring historical process.

which has placed Muslims at the margins, a society of which they do not want to be part. Secondly, in the most extreme cases, they may turn to political engagement, embodied by a project of subversion or resistance tied to transnational organisations. Yet, first of all, Islam may be a tool for an integration that refuses assimilation, a way through which young Muslims try to make themselves visible as both French and as Muslim. Islam provides the young generation of Muslims with an opportunity to be French differently, and to do this, they need to make their difference visible in the public sphere in a positive way.

The emergence among second-generation Muslims of so-called “neo-communities”, underlines their distinctiveness from the first generation, for whom ethnicity and traditions imported from the countries of origin formed the basis of identification. The constitution of neo-communities provides second- or third-generation Muslims with a way out of the dilemma of having to opt between ethnicity or integration, adaptation or innovation (Khilani, 2002). Many young second-generation Muslims who I interviewed in Italy, for example (Salih, 2004 and 2005), revealed similar ways in which young second-generation Muslims engage with Islam in a non-Muslim society, ways which prioritise overcoming the “minority” standpoint, and which aim at connecting the Islamic identity with universal values, rather than just claiming respect for “difference”. Most of those interviewed underlined that their Islam is a modern one, resulting from a long process of studying and reflection. For these young religious Muslims, it is a self-represented “modern” Islam that constitutes their main source of identification, in opposition to the traditional culture and religion of their parents.

Moreover, for these young people, Islam may represent a way out of the dilemma between ghettoisation and assimilation. In Italy, for example, the identification with Islam may take the form of participation in the association called the “Giovani Musulmani d’Italia”, a national association with more than 300 members. Engagement with the association via social, political and cultural work is a crucial way of gaining self-esteem and transforming “difference”, previously experienced in negative or ambivalent terms, into a positive trait – something to be proud of. Islam, via civil engagement in the association, becomes a tool for self-determination within Italian society, a way of transforming society, not towards an Islamisation of Italian society, but rather towards a transformation of Islam. Their accounts are characterised by the refusal to confine their identities to one culture or nation although, at a discursive level, they do not wipe out the existence of cultures or cultural identities, but rather express

a relational, dynamic and processional notion of identities and cultures. This is a dynamic that Syela Benhabib would call “democratic iteration” whereby an original practice is transformed through an ongoing process of replication and imitation (Benhabib, 2004). Their references and sources of identity often go beyond the country of origin and extend to global causes like Palestine or Kashmir.

Many young Muslims talk about their civic involvement to help the elderly and to encourage respect for the environment as some of the main activities they undertake during their free time, and they underline the importance of this involvement in the local public sphere that helps to complement their active participation in and identification with the transnational public sphere.

Residing in a specific local context may assume particular importance, for it is the arena where people’s voices and concerns can be heard and developed into new demands relating to citizenship and ways of being part of the European countries where Muslims live (on Muslim youth in France, see Cesari, 2003). As one girl of Moroccan origin underlined: “I do not have a special link to Morocco, since I did not grow up there, I do not have friends [there], I came here when I was three, I go there [for] only one month every year, [and] it is not enough to build friendships. On the hand, here I have everything, my parents, my best friends, my association, I can live my Islam in the way I like it, that’s why I feel attached here”.

However, along with the local context, second-generation Muslims often emphasise the importance of transnational public spheres as major contexts towards which they should direct their efforts, emphasising the abandonment of the national as the main or the only political and discursive arena where cultural and identity politics should be played out. Young religious Muslims take part in several organisations which are active at a European level. One such organisation is FEMYSO, the Forum of European Muslim Youth and Student Organisations, which was established in 1996, and whose official mission is “to be a platform for youth organisations to congregate, exchange information, gain experience and benefit from each other, to work for a better Europe”. Another is the European Council for Fatwa and Research ([www.ecfr.org](http://www.ecfr.org) in Arabic). These organisations are perceived to be at the forefront of innovation, by encouraging a greater participation of women and the younger generation in the decision-making bodies and in their endeavour to create a *fiqh* (jurisprudence) of minorities, which would complement the established

jurisprudence schools of the Muslim majority world (Caeiro, 2003). The nation-state is increasingly seen by second-generation Muslims as operating through an exclusionary process, which not only denies them access to citizenship, but also fails to acknowledge emerging new identities on the one hand, by persisting in crystallising Muslims as permanent and essential “others” and on the other, by offering them assimilation into the national community through a logic that restricts Muslim politics and identities to the private sphere.

The young generation of Muslims born and brought up in Europe can be seen as central actors in a process of reformulation of national citizenship, by demanding full recognition and claiming public and political recognition of their multiple identities (Muslim and/or European and/or attached to a local context, among many other possibilities). By doing so, they are ultimately contributing to challenging national notions of citizenship.

Moreover, young second- or third-generation Muslims are contesting the marginalisation of their Islamic identities to the private sphere and perceive their political and cultural construction as a minority as holding them back from fully participating in public and political life in Europe. Instead, what they ask for is a reshaping of the relationship between public and private, between secular and religious spheres. And yet, in this process, they are not simply claiming recognition of their cultural difference, rather they are concerned with redefining the meanings and practices attached to “universalism”.

#### **4. Migrant Muslim women and the building of a transnational public sphere**

National citizenship is not only challenged by Muslim religious identities, although the latter are definitively the objects of most contentions. Classic notions of citizenship are being challenged by new transnational ways of understanding membership, which are expressed by transnational political mobilisation. Indeed, there are increasing examples of transnational politics, not only carried out by men, as typical literature on long distance nationalism has shown, but also by minority women, especially although certainly not exclusively, young women of Muslim origin in Europe.

The growing interconnectedness that is occurring within the Mediterranean, and which is to an extent encouraged by the Euro-Med partnership, is providing new terrain for cultural and political action, contributing to processes of democratisation of both the countries of origin

and those of settlement. Women of the diaspora, both first and second generation, are central players in new conceptions and practices of citizenship that challenge the traditional understanding of membership that lies at the basis of the European approach. It is thanks to the increasing construction of social, economic and political transnational spheres that the diaspora is engendering, that we can observe the disintegration of borders and boundaries.

Muslim women throughout Europe are engaged in organisations and associations, which operate at local, national and transnational levels. Examples of such organisations include secular-oriented ones such as the *Mouvement des Femmes Algériennes pour la Démocratie* and the *Nana Beurs* in France, or *Al-Masoom* and *Women Against Fundamentalism* in Britain. They are concerned not only with the promotion of their rights and solidarity in European countries, but also with the promotion of human rights, pluralism and women's rights in their countries of origin, whether in Algeria, Morocco, Iran or Pakistan. Other organisations are concerned with supporting women whose lives in Europe are entangled with patriarchal oppression on the one hand, and legal discrimination as a result of gender-based immigration laws on the other.

One example of the transnational political sphere promoted by Moroccan women residing abroad together with their countrywomen, is the initiative *Moroccan Women from Morocco and Abroad*. In September 2003, the group organised a conference around the issue of the reform of the *Mudawana*, which saw the participation of Moroccan women from Belgium, France, Holland, Switzerland, England, Corsica, Canada, the United States, Germany and Spain, in addition to Morocco. It was organised by CIOFEM (Moroccan Women Information and Observation Center) working under the umbrella of LDDF (Democratic League for Women's Rights).

The outcomes of the conference emphasised the dilemmas that Moroccan men and women are confronted with in their daily lives in Europe because of the conflicts between the laws in their countries of origin and residence, especially concerning personal status codes. Recommendations from the conference included the proposal to apply the law of domicile to all Moroccans residing abroad, following a law that was passed in Spain in March 2003, and the promotion of a campaign aiming at training Moroccans abroad on women's rights and duties in mixed marriages or single nationality marriages. The conference participants advocated the setting up of a network of Moroccan Women from Morocco and

Abroad, which will co-ordinate action and information through action plans in each country, as well as at the regional and international levels.

In February 2004, the Mudawana went through a major reform, which gave women greater access to rights in areas such as divorce, polygamy and child custody. Although a systematic study on the effect of diaspora mobilisation on processes of democratisation back home should still be conducted, it has been noted how a major mobilisation in favour of the reform of the Family Code took place in the diaspora amongst those women, both first and second generation, who have managed to enter the European political arena at local, national or European levels (see Buskens, 2003).

This is just a small example, which suggests that transnational loyalties and affiliations should not be perceived as a threat. Indeed, they could be the engines of processes of democratisation. Rather than trying to repress or confine transnational identities and mobilisation, politicians may find that transnational actors could be agents and recipients of new discourses of citizenship and rights. The diaspora living in Europe could become crucial in the formation of new transnational public fora, engendering discourses and practices, which may overlap and interconnect with civil societies' agendas in their countries of origin.

## **Conclusion**

The transnational political, cultural, social spheres forged by actors holding multiple memberships, loyalties and attachments, are hardly recognised if not actually discouraged by national political discourses and regulations in Europe. Especially in the post-9/11 climate, multiculturalism, that dominated much of the European public discourse during the 1990s, is undergoing a deep crisis of legitimacy, with assimilation increasingly replacing the politics of difference (Grillo, 2005). The recent dramatic terrorist attacks (which targeted both European and Arab-Muslim countries alike) and the episodes of honour killings throughout Europe, have served to reinforce the association of Muslim migrants with barbaric practises characterised by violence, terrorism and backward traditions (such as the oppression of women), with the result that "security" seems today to be the most important issue at stake in contemporary Europe with regard to Muslim migrants and their offspring. It comes as no surprise that the issue of allegiance and loyalty to the "national culture" and to the receiving states has acquired renewed significance. In this context, simultaneous incorporation, while being documented by many studies on both first-

and second-generation migrants, is far from being recognised or encouraged. Increasingly, loyalty to the country, religion or culture of origin and thus, a transnational dimension of life, is perceived as incompatible with loyalty to the local or national culture in Europe, especially where second and third generations are concerned. Discussions about citizenship laws and regulations happen to be the privileged arenas through which the notion of loyalty becomes dramatised and ritualised in Europe.

Very recently, for example, an official contrast between the Netherlands and the Moroccan Government emerged concerning the issue of dual citizenship. On the one hand, the Netherlands wants to abolish the possibility of dual nationality for the third generation of migrants, who in principle would automatically become Dutch at the age of 18, and by imposing a choice between one citizenship or the other. On the other hand, Morocco strongly wants to retain automatic citizenship for all those born abroad to parents of Moroccan origin. The same happened in Germany after the citizenship law (2000) was introduced. Indeed, the new law introduced for the first time the *ius soli*, allowing children born in Germany to foreign parents to naturalise, under certain conditions, but it put a ban on dual citizenship, on the basis that dual or multiple loyalties are not possible and should be discouraged. Italy, although in the process of reducing the number of years necessary for naturalisation from ten to five, is nonetheless proposing to base naturalisation on the “degree of integration” into the country, where proper use of the Italian language and the oath of loyalty and allegiance to the nation would become central, symbolic rites of passage. England seems to have paved a way by introducing compulsory citizenship tests to assess knowledge of both language and life in the United Kingdom. Moreover, since January 2004, new citizenship ceremonies have been introduced, which include singing the national anthem and swearing allegiance to the Queen. France represents an even more complex context, and we can trace the incompatibility of being French and simultaneously being a Muslim back to colonial times, when access to French citizenship implied a rejection of the Muslim identity on behalf of the colonised (Etienne, 2004). It comes as no surprise that the issue of the veil or *hijab* gained a particular emphasis in France, where the donning of a veil in public schools is perceived as incompatible with loyalty to the French Republic.

Apart from these symbolic arenas, there are other, materially more significant, arenas where we can see the reproduction of state powers and the reinforcement of a more traditional understanding of migrants and migration. Far from acknowledging simultaneous incorporation in two

or more societies as a “transnational” phenomenon, typical of contemporary migration, the EU does not seem to be able to overcome the limits of the classic state-based understanding of membership and citizenship, and in fact seems to reproduce it. The existence of a “fortress Europe” is not being challenged by an enlarged Europe and its neighbourhood policies. The liberalisation of movement concerns only goods, services and capital, while the free movement of people is still seen as a subject to be postponed. Although in a few documents the Commission has emphasised that, along with “the prospect of a stake in the EU’s internal market”, all the neighbouring countries should be offered “further integration and liberalisation to promote the free movement of persons, goods, services and capital”, the possibility of the free circulation of people is not certain to be included in EU agendas. Rather, the issue of the management of borders, which have become longer and have multiplied since the enlargement, seems to be the one at stake. Mobility keeps being seen as a “limited resource”, the object of special agreements and subject to the fulfilment by countries of origin of their new role as “buffer zones”.

Acknowledging the role of transnational or bi-national young Muslims and Muslim women as crucial agents in the process of re-democratisation of Europe and the Mediterranean requires a new understanding of migration as a gender-based process and entails a shift from the conceptualisation of mobility as a “limited resource” to be subjected to control, to the recognition of its beneficial role in rethinking democracy within increasingly plural societies. The increasing involvement of migrants in transnational public spheres, the quest for recognition of young Muslims and Muslim women in the political and public spheres of the European countries they reside in, confirm the existence of very lively diasporic subjectivities, whose crucial role in the processes of redefining democracy should be acknowledged and encouraged.

According to Heiko Henkel (2006), much would be won if, “rather than seeing the encounter of Europe with Muslim communities in terms of a clash of civilizations or a confrontation with Europe’s own less enlightened past, we could see it simply as a new chapter in the European history of integrating new social projects”. Unfortunately, Henkel adds: “what makes the process of integration particularly difficult and unwieldy is that it takes place amidst two powerful and often converging claims that the Islamic tradition and liberal democratic society are mutually exclusive”. As an alternative to the clash of civilizations paradigm, we should value and qualify the request for public recognition of Muslim religious identities as

part and parcel of the democratic process of rethinking society, nations and citizenship, within increasingly plural and diverse societies.

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