2nd LSE PhD Symposium on Modern Greece
'Current Social Science Research on Greece'
LSE, June 10, 2005

Immigration's Part in the Reconfiguration of Citizenship: the Greek Case.

Eleni-Andriani Sampatakou
PhD Student
University of Athens

Holder of scholarship
granted by the
State Scholarship Foundation

I. Preface.

'*Citizenship and migration affect everyone. More than any other institution, they touch us all, partly because of their scale and public nature, and partly because they hold up a revealing mirror to who we are and to the kind of society we want to live in'.*

(Kostakopoulou, 2000:168)

Among the various features of globalization that challenge the modern nation state, migration holds a special place. It constitutes per se a challenge for the state sovereignty as well as for its central political institutions. This challenge is manifested at the design and implementation of immigration policy, including both immigration control, i.e. state control over entry and expulsion, and integration of long term foreign residents. In our paper we focus on the integration aspect of immigration policy, and more specifically on issues linked to the status of settled migrants vis-à-vis political institutions, especially that of citizenship. Our choice derives from the fact that in Western Europe newcomers plan to stay permanently, while the once thought as temporary labor migration has definitely become settled. The result is indeed puzzling: long term foreign residents trapped in a non-citizen status from a formal point of view, i.e. deprived of full rights and exempted from full obligations. The need for a comprehensive integration policy is pressing.

The role of citizenship in our study is focal, not only because of its perception as the 'essence' of the nation state, but also because it forms a tool of significant importance for the nation state's integration policy. In the remainder of the paper, we shall proceed by presenting the classical notion of citizenship, the role that was originally assigned to it and the challenge it is confronted with in our days. In turn, the main alternatives for escaping the ascertained dead-end are cited. The section closes with the presentation of a case study focused on recent relevant developments in Greece.

II. The Institution of Citizenship: definition, role and meaning in retrospect and today.

When asked to define citizenship, a common-sensical answer would refer to a set of rights, such as the right to vote and stand for political office, to enjoy equality before law, to be entitled to government services and benefits etc, and a set of obligations, such as to abide by the law, to pay the tax and to defend one's country (Castles and Davidson, 2000:1)[1]. This simplistic view of citizenship, no longer

[1] For an elaborated answer to the question 'what it means to be a citizen', see Bauböck, 1994 a:vii.

accurate or at least adequate, attunes with the expectations linked to the institution of citizenship when first coined.

The institution of citizenship is often perceived of as the other facet of state sovereignty. The two have been collaborating since the French Revolution when 'nationess' and 'stateness' respectively were fused to form the modern world's universal political organizing principle: the nation-state (Joppke, 1998:9). The fusion of the 'statist' legacy with the 'republican' legacy of 'a self-governing political community of free and equal citizens' (ibid: 23) reveals the inherent dualism of the modern nation state: *qua* state, it is attached to the territorial organization of rule and characterized by the monopolization of legitimate force; *qua* nation, it is a democratic membership association with a collective identity, formed on the grounds of (national) origin (ibid:8, 23). In other words, the nation state is 'a combination of a political unit that controls a bounded territory (state) with a national community (the nation or people) that has the power to impose its political will within those boundaries' (Castles & Davidson, 2000:12).

In this context citizenship was attached to nationality in order to determine the members of the polity. Becoming a citizen depended on membership in the community, that is to say a citizen was always a national as well. The rationale is obvious: in a world where scarcity of resources prevails, rights cannot be granted for free to everyone[2]. Being a national guaranteed being culturally homogeneous, and this constitutes a sufficient proof of shared understandings on the rules of conviviality. Following this path of logic, citizenship was used to 'consolidate internally [the fragile state] by forging hostility towards external groups', i.e. other nation states (ibid:11). Thus it bred a specific sentiment of solidarity in the face of the other nation states.

At the same time, from a domestic angle, citizenship purported to institutionalize and legitimize the dominant ethnic group's culture by means of taking measures 'to incorporate minority groups into the so-called "national culture"'(ibid:12-3). These measures consisted either of forcible imposition or of gradual consensual processes or of both. The homogenization process was justified in light of the risk that the existence of diverse ethnic groups, all inhabitants of the same often fragile territorial unit, constituted for the latter's survival. In fulfilling its task,

[2] See also Walzer's argument about states operating as clubs (1983). Compare to the 'original position' hypothesis of Rawls (1971).

citizenship worked along with all important collective identity formation institutions -education, military service, church etc-, in order to attain the desirable homogeneity of the resident population. Once again, the intrinsic contradiction between the UN fundamental principles of national sovereignty and self-determination of peoples lies before the researcher's eyes (ibid:12).

In fact the above mentioned homogenizing function of citizenship supplemented its function as a control mechanism. As the absolutist state rose and personalistic dependencies such as serfdom or other forms of forced labor declined, personal freedom advanced (Torpey, 1998:241). The territorial rule liberated the individual from the master-servant bond and from the feudal internal barriers to move. However this liberation was at odds with the constitutive principle of the state, i.e. 'sedentariness' (Joppke, 1998:6). The state was in need of finding a way to keep track of its potential taxpayers, soldiers and citizens, a way of monopolizing the authority to determine movements of people and establishing their identities in order to enforce this authority (Torpey, 1998:241). For all these reasons, 'a form of membership, more demanding than mere residence, was required' (ibid). Citizenship was the institution that rendered people dependent on states for the possession of a certain identity that allows or prohibits access to various spaces. Its formal recognition as an inclusion/exclusion mechanism took place after the WW I, with the use of devices rooted in writing, i.e. identity card, passport and other travel documents, certifying one's national membership (Hammar, 1986:736; Giddens, 1987:47). This way every person became bound to one and only citizenship.

Moving away from the historical context of citizenship's emergence and evolution, it is advisable to have a closer look into the meaning of the actual term. With a view to a better understanding of the term, we shall employ a rather artificial, nevertheless methodologically useful, distinction between the formal and the substantive aspect of citizenship.

Formal citizenship

The formal approach to the institution of citizenship deals with the matter of access to citizenship. Access to citizenship is usually governed by two adverse principles, *jus soli* and *jus sanguinis*. By virtue of *jus soli*, which literally means law of soil, citizenship is bestowed to an individual at birth in the territory of the state in concern. *Jus soli* is usually associated with states formed by immigrants such as in

North America, Oceania etc, because of its ability of integrating -or even assimilating- migrants into the receiving society. On the other hand *jus sanguinis*, i.e. law of blood, confers citizenship only by descent from a national of the state concerned. *Jus sanguinis* is mostly applied in countries with emigration past, and it is considered to be closer ideologically to the 'Kulturnation' (ethnic) model of state-building (Castles & Davidson, 2000:85).

Their critical difference though lies in the effect they have on longstanding foreign residents. There is no doubt that both rules craft a rather inhospitable environment for the longstanding migrant population. However it is *jus sanguinis* that sustains the formal exclusion from the polity for migrants, as its consequences are transmitted to the offspring of the migrants, namely second and subsequent generations. This comes to verify that at the end of the day the accidental fact of one's birth determines his life's chances (Weiner, 1996:172-5). But how can we say that we live in liberal democracies when a part of the population is deprived of the right to have a say in law-making and governance of the state where it resides?[3]

Naturalization rules have undergone a considerable change the last decade[4]. Besides the fact that in practice a combination of the two has been applied, there is a third principle gaining ground regarding admission to citizenship especially in countries with long immigration past, irrelevant of having accepted it or not. According to *jus domicili*, or law of residence, a migrant may gain entitlement to citizenship by means of residence in the territory of a state (Castles& Davidson, 2000:85). Certainly this development favors the later generations, people who are born and brought up in a state where their parents are foreigners. It should be noted though that in countries where *jus sanguinis* predominated, cautious steps have been made towards the introduction of elements of jus domicili. *Jus soli* countries have a different stance to the issue, launching a combination of the old and the new principle.

In spite of these changes, the situation regarding citizenship by acquisition, has not been radically altered; propensity to naturalization remains significantly low (OECD, 2004:309). Causes vary and result from both sides –state and migrants. Among these the issue of dual citizenship has its part. To be more specific numerous objections are raised when the issue of dual/multiple citizenship comes into question.

[3] Political rights are tied to citizenship and citizenship presupposes national origin or/and favorable naturalization regimes.
[4] For an overview of naturalization in various countries, see Cinar, 1994:49-72;Guimezanes, 1995:157-72.

As we shall see, these objections are founded on political rather than legal-technical arguments (Hammar, 1989:86-9).

First of all there is the perception that in a well ordered world a person can bear only a single citizenship. Deviating from this postulate may bring problems to interstate relations, as dual citizenship may entail adverse obligations.

Secondly, a single citizenship guarantees unity, cohesion and strength of a state; no complications risking national security domestically and internationally can be afforded. For the same cause, loyalty cannot be divided between two states. Division of loyalty is interpreted not merely as division of attachments and identifications between two different social and cultural environments, but also as division between two separate political communities. According to the essence of citizenship membership to a state is inevitably membership to a nation.

The above lines of thought, already out-of-date[5], must seem rather paradoxical when faced with the dynamic category of 'transmigrants'. By employing this old term to define a recently upcoming migrant category, researchers refer to 'the migrant who maintains strong and enduring ties to homeland, even though he is incorporated in the resettlement society' (Levitt, 2003:565). A concomitant effect of these ties is 'overlapping memberships between territorially separate and independent polities', a fact that in turn 'affects collective activities and conceptions of citizenship in both host and origin societies' (Bauböck, 2003:700). In a nutshell, we speak of simultaneous belonging to two different political communities. Is there any more evident example of citizenship's inadequacy against today's realities and needs?

Having outlined the main features of formal citizenship and before turning to the substantive citizenship, there is a point that should be elucidated so as not to be misunderstood: 'naturalization is a discretionary act of the state'(Castles& Davidson, 2000:86), namely access to formal citizenship is at the discretion of the state. What is at stake here is where the formal citizenship-door leads today.

Substantive citizenship

The substantive citizenship offset for a while issues arising from the denial of admission to formal citizenship. With respect to its interpretation two main currents should be mentioned. Both enjoy strong advocacy and are not mutually exclusive.

[5] For cases revealing the irreversible augmentation of people possessing dual citizenship, see Hammar, 1989:82.

Following their historical appearance, citizenship was originally considered as membership of a nation state. The central notions of this conceptualization are those of community, belonging and political participation. Its advocates are privileged enough to report the respective Aristotle's work (Abu-Laban, 2000:515). Regarding the basic ideals permeating this model, they are a fusion of the statist and republican legacies.

From the statist legacy (Joppke, 1998:23), citizenship inherits the features of:

- 'immediacy': nothing stands between the individual and the state.
- 'personality': the state as membership association is too demanding to rely on mere birth on territory or residence.
- 'continuity and exclusivity': the relationship between the state and the individual continues over a lifetime and cannot be divided simultaneously between more than one states.
- 'effectiveness': the state rewards the individual's commitment by offering physical and social protection.

At the same time the republican tradition circumscribes the nature of citizenship as (Brubaker, 1989:3-4):

- *egalitarian.* Gradations of citizenship cannot be accepted.
- *sacred.* Citizens should be prepared to make sacrifices ('sacred acts') if asked.
- *national*. A member of the state must also be member of the nation.
- *democratic*. Membership must be open to all and include significant participation to political life.
- *unique*. Each person must belong to one and only one state., and
- *consequential.* Membership, along with duties, should confer important privileges.

This conceptualization of citizenship has been contradicted by contemporary reality, not to mention the deviations resulting from different policy implications the aforementioned features involve[6]. Postwar immigration has accentuated old deviations and triggered new ones. This development was expected to the extent that membership is a much broader and inclusive term than formal citizenship (Brubaker, 1989:16). More specifically, as Hammar points out, a foreign resident may as well be member of one or several societal subsystems, such as resident population, labor force, economy, cultural and political life (Hammar, 1986:742). Consequently there

[6] Analytically in Brubaker, 1989:5. For the conditions that favored these deviations see Soysal, 1997:18-9.

are many *de facto* and *de jure* relations that a non-citizen may have with the host society.

Let us now turn to the conception of citizenship as 'acquisition of rights'. This one is informed by T. Marshall's sociological analysis for citizenship rights. According to Marshall (1950) there are three distinct but interrelated categories of citizenship rights which developed in a historical progression. The first category is the 'civic' rights, relating to the rule of law, known also as 'negative' rights; the second category is the 'political' rights, relating to active participation in the democratic processes of government, known as 'positive' rights; last but not least come the 'social' rights relating to the 20th century's welfare state, which permitted genuine participation for all individuals to political life by means of guaranteeing an elementary standard of well being through work or social provisions.

For all its doubtless value, Marshall's path breaking theory has its limitations. A classical criticism focuses on the false impression, that the three categories of rights are similar in kind: social rights can never be assimilated to political rights, as the former require e.g. money redistribution through taxation, constituting thus a challenge to capitalism (Oliver-Heater, 1994:34); on its lack of general applicability; on the failure to emphasize the real nature of struggle in the acquisition of rights. In any case, Marshall's theory is of questionable relevance today since the postwar immigration has reversed the almost teleological evolution of citizenship rights (Castles & Davidson, 2000:105). To be more specific guestworkers enjoyed first civic and welfare rights, while political rights are yet to come[7].

It is noteworthy that the above discussed conceptions of citizenship still appear in the respective literature, despite the fact that both of them do not match today's scientific discourse goals or needs, at least in their original form. Their 'survival' is attributed to the flexibility they have shown with respect to the modern needs (Abu-Laban, 2000:513-4). To be more specific, the membership approach has incorporated 'identity politics'[8], while the rights' approach is associated to the ongoing debate on welfare state's future, thus reflecting the modern terms of the debate between communitarians and liberals respectively. Recently, a new approach of substantive citizenship has joined the precedent ones. Its advocates endorse the

[7] Elaborated in the next section.

[8] For the theme of 'identity politics raised by the new social movements in industrialized western countries, see Abu-Laban, 2000:514.

conceptualization of citizenship not only as closure mechanism, but also as source of inequality –an inevitable corollary of its function as mechanism of inclusion. Taking a closer look, and without opposing to the discussed viewpoint, we have to admit that this cannot be regarded as a paradox, for the egalitarian and democratic character of citizenship refers in practice exclusively to citizens. Namely, citizenship implies attainment of a 'bounded' equality (Brubaker, 1989:17).

Having discussed the inherent and hitherto latent ambiguities of citizenship, as they emerge in the light of citizenship's approaches, i.e the formal and the substantive, it is high time we focused on immigration' part in the crisis citizenship is going through lately.

III. Immigration and Citizenship.

The inherent ambiguities of citizenship resurface as new challenges triggered by immigration unfold. We have already discussed deviations from the national citizenship model, resulting from endogenous contradictions. We have also briefly referred to the weaknesses demonstrated by the institution of citizenship when it faces the new migration realities. The present section has a dual task: it attempts to elaborate both internal and external pressures exerted directly on citizenship or indirectly via the nation-state. We should keep in mind that in these pressures lie partly the roots of citizenship's crisis.

Making a start from pressures domestically manifested, we focus on the increasing number of the so-called 'denizens' (Hammar, 1986, 1989, 1990). Denizens or quasi-citizens are immigrants who have been residents in a country for a long period of time –many years- and have obtained a special legal status. The state's criteria in granting this status can be length of stay, participation in the labor market and social integration. The granted status comprises civic, social and several, but not core, political rights. To be more accurate the rights conferred upon the individual are security of residence status; protection from deportation; right to work; entitlement to social security benefits and health services; access to education (Castles & Davidson, 2000:94). With respect to political rights the furthest concession so far has been voting in local elections, limited though in very few countries[9].

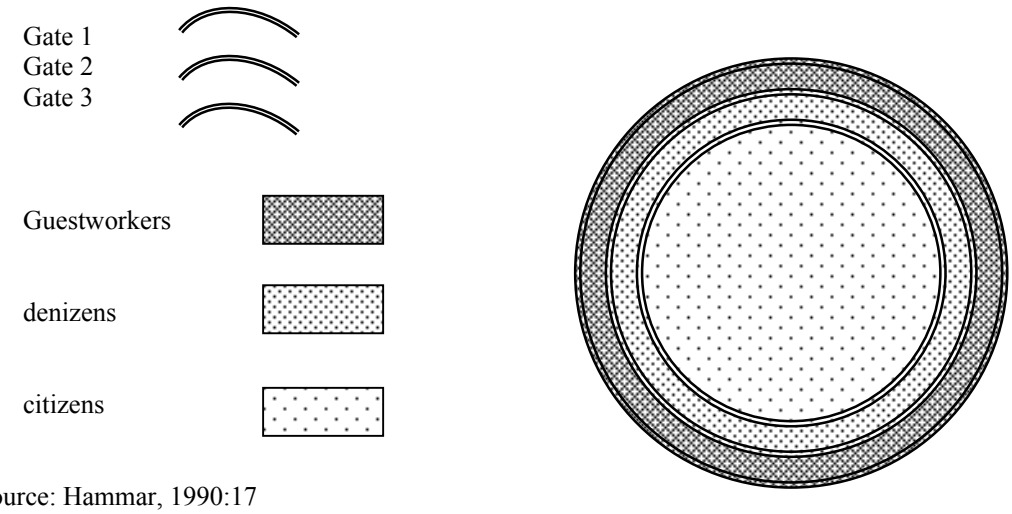
[9] Sweden, Netherlands, Norway, Denmark (Brochmann, 1996:17,ft11)

The term 'denizen', invoked by Hammar to denote the aforementioned legal status, is an old English term used in 19th century when referring to privileged aliens (Hammar, 1990:14). Today it describes a status more than that of a foreigner, less than that of a citizen. Earlier, in the classical era, another word tantamount to this mid-range category of rights' holders was employed in Athens: 'metoikos' (*metic*)[10]. Times change but *mutatis mutandis* some things remain the same. And the backbone of all these statuses is the right to residence, for once permanently settled one cannot be ignored.

Urged by this inevitable development, Hammar enhances Walzer's theory of admittance. In his 'Spheres of Justice', Walzer argues that there are two control stations on the way to full admission in the host society: the regulation of entrance and access to citizenship by means of naturalization (Walzer, 1983:52). According to Hammar now there is one more entrance located between these two, which leads to the denizen status (Hammar, 1990:16-17). The three entrance gates can be illustrated as three concentric circles, analyzed as following

- Gate 1. The outer circle corresponds to the regulation of immigration. The admitted foreigners may be guestworkers or temporary workers.
- Gate 2. The second circle corresponds to the regulation of the denizen status, and the admitted immigrants are the ones Hammar calls denizens.
- Gate 3. The inner circle encompasses the naturalized citizens.

Figure 1. The three entrance gates



Source: Hammar, 1990:17

[10] A 'Metic' is the 'foreigner of Greek or barbarian origin, settled in a city other than his home city, member of a special class, who pay a particular [residence] fee (metikion) and enjoys limited political rights' (Babibiotis, 1998:1097).

The denizen status has resolved difficulties arisen in countries with restrictive naturalization laws, mainly those of jus sanguinis law. By virtue of the denizen rights next immigrant generations enjoy a much improved legal status than that of guestworkers. Nevertheless it is still a status inferior to that of a citizen, a fact that creates first and second class citizens. One could certainly argue that there have always been differentiated statuses of citizenship even in western liberal democracies. For example, Pettigrew outlines at least seven different categories: a) ethnic migrants b) citizens of another EU country c) ex colonial People d) recruited workers from non colonial countries d) refugees and asylum seekers e) accepted 'illegal' migrants, known also as 'margizens' (Martiniello, 1994:42) f) rejected illegal migrants (Pettigrew, 1998:80-1). According to Brubaker these gradations of citizenship rights, unless temporary, cannot be legitimized and need always a special justification (Brubaker, 1989:3, 16).

Many scholars from different discourses converge in arguing that the denizen status contests straightforwardly the logic of national citizenship, as it strips citizenship from the conferral of fundamental rights, but the core political ones. Some of these researchers even compare this development with the recognition of socioeconomic rights to guestworkers. It is really interesting that this development is underpinned by an emerging International Human Rights Regime[11]. It is common knowledge that international bodies such the UN, ILO, WTO as well as regional constellations as the Council of Europe, the EU, etc have developed international human rights standards. All of them are of significant importance, still we can distinguish at the international level the Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights (1966); at regional level the European Social Charter, the European Convention of Human Rights (1950), the American Convention of Human Rights (1969), the African Charter of Human and Peoples' Rights (1981). Focused especially on migrant workers is the United Nations Convention for the Protection of the rights of All Migrant Workers and members of Their Families (1990).

[11] For an overview of the codification of the International Human Rights Standards, see Ioannou *et al*, 1990:106 *et sec*), Papassiopi-Passia, 2004:23-27. For their strength, impact and contradictions, see Guiraudon & Lahav, 2000:167.

This growing body of international law, general and more specialized, guarantees protection for a whole range of civic and social rights, once reserved only for citizens, but now described as 'personal rights'. Today these rights are associated to universal personhood and not national citizenship; they have been deterritorialized and anchored exclusively to personhood (Soysal, 1994:1; Sassen, 1998:70).

Something that seems to skip our attention is the context where these rights are realized and that is the nation state's context. It is not accidental, that all rights' provisions in international texts are careful not to impinge upon state sovereign discretion (Bosniak, 1991:741). The ultimate enforcement and sanction powers rest with the state. The latter is constrained only by the so called 'soft law', i.e. norms characterizing a 'civilized' conduct in the community of states for a minimum protection of aliens' rights (Papassiopi-Passia, 2004:21).

On the other hand the fact that nation states have voluntarily become signatories to international human rights treaties, whose provisions draw often upon the constitutional traditions of liberal democratic states, appeases the above highlighted worries. This holds particularly in the case of EU member states.

Citizens of any E.U. member state enjoy a special citizenship status in the territory of any other E.U. member as well as in the territory of E.E.A. countries. This status results from the Treaty's provisions on EU citizenship, and involves mainly civil and social rights. With respect to political rights they are not yet fully bestowed. Certainly this citizenship does not concern migrant population from third countries residing in any of the E.U. members, much less illegal migrants. Furthermore, the Treaty provisions, regulations and directives, such as the Race and Equality Directives (2000), the Directive regarding long term immigrants from third countries (2003), the Directive concerning the right to family reunification (2003), also bind member state practice. The E.U. Charter of Fundamental Human Rights, embedded in the famous European Constitution-to-be, is also a positive step and at the same time a powerful limit-setter for states concerned[12].

As a concluding remark we would like to draw attention on the fact that hitherto migrants have been excluded from full citizenship; instead they encounter an array of differentiated and by no means legitimized in the liberal democratic context of governance citizenship statuses. Internal and external emerging realities are about

[12] For the EU Charter of Fundamental Rights see Papademetriou, 2001:201.

to change radically this paradoxical situation in western nation states. Citizenship's inclusion among the nation state's elements to be reformed is beyond doubt. What remains to see is the nature of its reformat and nation state's part in the process. Respective prospects are discussed next.

IV. Proposing alternatives: encouraging naturalization vs. forging a post-national citizenship.

'Contemporary migration with its implications of post-national membership and multicultural identity politics must be a profound challenge to every component of the classical model of citizenship' (Joppke, 1998:23). Having discussed the nature of this challenge, we could draw two whatsoever different conclusions. One of them regarding the migration challenge as fatal for the nation state: 'citizenship patterns and nation state are changing anyway due to the inexorable global forces'; the other one being conservative: 'nation state may be weakened by internal and external constraints, but is still the only political unit in whose context democratic citizenship is realizable' (Castles & Davidson, 2000:15).

Both of them hold a good part of truth and give rise to two basic options, when thinking of 'new' migration and the concomitant challenge, between which a wide range of viewpoints lie. These options consist of: a) migration as one more challenge to be incorporated in the existing framework, since there is no alternative political organizing principle b) migration as a challenge commanding a fundamental transformation of the classical nation state[13].

Summarizing the focal points cited hitherto, we conclude that

- Globalization is indeed inexorable regarding traditional patterns of conduct in any field of human activity.
- Globalization has given impetus to new patterns of migration, which in turn reinforced precedent migratory movements.
- The classical notion of nation state and its central institutions is challenged, because there is no satisfactory correspondence between the available state means and mechanisms and the raised demands.

[13] Prominent advocates of these options are Brubaker and Soysal respectively.

- Despite the rise of international regimes in trade of goods and services, finance, human rights, the state remains the sole political organizing principle where internationally agreed norms can be enforced successfully.

Taking these into account, we argue that the most appropriate action to be taken is active involvement in the shaping of the new parameters of the nation state and state institutions. Especially with respect to citizenship, it has to undergo a formal change at last; de facto changes show partly the available ways. Among them we can distinguish two realizable policy options

a) To encourage naturalization of non-citizens, especially those granted the status of denizen.

b) To establish a post-national citizenship.

In turn we discuss separately these alternatives so as to point out the shortcomings and merits each of them possess.

Naturalization

Naturalization is the process through which access to full citizenship status is acquired. In practice full citizenship is interpreted as full political rights, since civic and social rights are already recognized –at least- to legally resident migrants. Encouraging naturalization requires taking positive measures concerning both sides involved.

Consequently, naturalization rules should become more tolerant to dual/multiple citizenship, which, as mentioned before, is a common instance for migrants, even if they do not pursue it. This policy reorientation has to be consistent and not subject to populistic and clientistic motives. Motives should be given to aspirant citizens as well as to migrants who have set partial membership as their ultimate goal and not as an intermediate one. Second generation and subsequent generations' migrants are more likely to take the chance and respond to policy changes.

On the contrary, those satisfied with the partial membership, those who have accepted the fact that they are deprived of core political rights, liberalization of access to citizenship could be supplemented by redefining partial citizenship content, so as to make it less attractive. Limiting rights associated with partial membership and linking partial membership to new obligations would underpin this effort (Brubaker, 1989:17).

Naturalization, as a policy option, seems realistic and having potential in the foreseeable future, if jus sanguinis countries relax their restrictive naturalization policies. However it does not constitute a real answer to the issue. Its weakness lies in the assumption that citizenship and rights, especially political rights, are a single concept. We always seem to forget that it is a human mental construction, resulting from the parallel historical development of citizenship and political rights (Hammar, 1986:738-9). In reality, citizenship, nationality and political rights are not part and parcel of the same. Therefore decoupling them is always possible, of course not without casualties.

Post-national citizenship

Claims for considering the launch of a post-national citizenship were fuelled originally by the impact guestworkers' advent had on citizenship rights (Soysal, 1994:2). Guestworkers, in spite of being temporary labor migrants, have evolved into active economic, social and political actors in the host society. The fact that they were granted with social and economic rights turned them into 'empirical anomalies to national citizenship' according to a prominent scholar (ibid). This decoupling of rights and national identity is manifested today in the denizen status, which is in practice interpreted as deprival of core political rights only.

On these grounds researchers from various social science fields argue that it is high time identity and rights were formally decoupled and a new pattern of citizenship arose. Their arguments for the so-called post-national citizenship have as starting point the observation that the once mighty nexus between territory and power is not as strong as it used to be (Wieviorka, 1994:25). Non-state entities, nearly autonomous from the state, can regulate the movement of individuals as workers by virtue of international agreements, such as GATS. The denationalization of capital, information, goods and lately individuals -as service providers- movement is the typical feature of international regimes. As a matter of course the coexistence of these denationalized regimes with the renationalized labor mobility regime is replete of tension. The latter is accentuated due to the establishment of the individual as 'site of rights' (Sassen, 1998:72). The direct association of rights with universal personhood has rendered the individual subject of international law, underscoring thus the move away from statism in international law and declaring human rights as a world-level organizing principle (Soysal, 1994:1; Bauböck, 1994:239-248).

Summarizing post-nationalist arguments, resulting either from an economic technocratic perspective of the world (see e.g. Ohmae, 1991, 1995) or from political theories on the development of supra-national norms of human rights (Soysal, 1994; Sassen, 1996; Jacobson, 1996), all of them converge to the imperative transformation of citizenship's content. European Union citizenship constitutes an often quoted example of efforts to launch a post-national citizenship.

Nevertheless we should not dismiss the actual 'incongruity between normative and organizational bases for rights' (Soysal, 1994:8). The state remains the final and determinant context for setting into force international treaties and enforcing the derived norms. Certainly there are constraints to its discretion, such as principles of customary law. In any case citizenship, even if it is regarded to be less important today, it is still of significant symbolic value (Brochmann, 1996:18). Hence reassertions of the identity component of citizenship, even though in the member states of the European Union economic and welfare rights have been extended to foreign population.

With respect to European Union citizenship[14], indeed it can be considered as a forerunner of post-national citizenship; the final outcome though is not definite. EU citizenship may not be national, but it is founded on the citizenship one's of the member states. Consequently, it is not substitutive of national citizenship, but subsidiary or complementary to it (Joppke, 1998:29). Besides it was -originally at least- intended only to 'remove from citizens of each member state the disabilities of alienage in other member states' (Preus, 1996:28). Some scholars regard it as a rephrase of the association between citizenship and nationality (Martiniello, 1994:35).

Taking a closer look to the provisions of the founding Treaties, the Community freedoms project basically the model of the 'citizen as worker'. Series of Regulations and Directives, decisions of the ECJ[15] and social policies have crafted an environment conducive to civil society, despite the reluctance some of the member states have demonstrated. Nevertheless the prospect of 'citizen as human being', granted on the criterion of residence and nationality reflects a later stage.

In conclusion the transformation of western countries into multiethnic, multicultural societies after the WW II commands a review of citizenship's content. A

[14] For the discussion on the merits and drawbacks of the EU citizenship see Hardy & McCarthy, 1997:118-20; Kostakopoulou, 2000:66-7; Meehan, 1993.

[15] See Guiraudon, 2000; Craig, P. & de Burca, G., 1997.

new conception of citizenship must be constructed, based on the deterritorialization or denationalization of rights and participation. Long-term residence and not national origin would serve as criterion for the acquisition of this citizenship. By adopting such a citizenship model restitution of liberal theory's tenets regarding the notion of 'citizen' would take place[16].

Taking determination to rectify the formal exclusion of migrant population as granted, unwillingness to separate citizenship from nationality on behalf of any of the involved parts could only result in the autonomous granting of full rights to long term foreign residents, rendering thus the institution of citizenship a decorative element. As Carens argues a moral claim to citizenship can always be based on factual social membership, reflected in living, working and establishing ties with the host society (Carens, 1989:41).

V. The Greek case.

Theoretical discussion needs always a pragmatic view into the studied object. Having so far cited arguments and remarks associated with an abstract nation state, it would be of great interest to recourse now to the case-study method. Greece offers a suitable case as it fits the required profile of an immigration country with strong national ties, simultaneously an unquestionable member of western liberal democracies.

Our presentation starts with the migration turnaround of the last decades in Greece. In turn the legislative contexts for migration and citizenship will be cited successively with a view to ascertain the size of the gradual change of governmental stance against migration and migrants in conjunction with naturalization policy changes. A concise look into the draft Immigration Bill completes the section.

Regularizing Immigration: an unprecedented task.

Contrary to the image most of us have for Greece, mainly due to difficulties we may come across when faced with bureaucratic processes, Greece belongs in a small group of world's prosperous and privileged states. The Greek polity and society has undergone a profound change, a 'constructive transformation' (Diamantouros, 2004:10). According to a prominent scholar, this transformation has taken place in crucial ambits (Diamantouros, 2004:10-1) including:

[16] For the fundamental contradiction between citizenship and nationality according to the liberal theory see Castles and Davidson, 2000:12.

a) *Economy*. Greece is a member of the European Union and eurozone. According to OECD statistics, it holds the 28th place among the world's highest GDP rates, while UNDP considers it to be the 21st among countries with best quality of life.
b) *Politics*. Greece is a consolidated democracy.
c) *International Relations*. A period of isolation and marginalization has ended. Greece is member of nearly all 'exclusive' global and regional economic constellations (but the G8). It is considered to be a reliable partner.
d) *Society*. The generations from 1974 and henceforth have no collective traumatical experience that could lead to civil disorder.

Consequently, it should not surprise us the fact that Greece –along with all southeuropean countries- has become a target country for aspirant immigrants from developing countries of Asia, Africa, Eastern Europe as well as for ethnic Greeks and Greeks of the Diaspora.

Taking things from historical point of view, immigration into Greece started in the '70s. The first migrants into Greece originated from Third World countries and regarded Greece as a transit country in their journey to Northern Europe or America. There were also many Greeks, e.g. guestworkers in FRG, returning due to the economic recession. The migratory movement of the '80s comprises mainly Pontian Greeks. At that time immigrant population constituted 1.8 % of the total population in Greek territory (Sitaropoulos, 1992:89).

The '90s brought a rupture to migratory patterns, as the massive exodus from Albania towards Greece occurred. A rise of illegal immigration through organized networks was also noted. The newcomers rarely regard Greece as a transit country; most of them are determined to stay.

Greek administration was taken by surprise. The legislative framework was not particularly helpful as it was based on an 'archaic piece of legislation', i.e. 'Aliens' Law 4310/1929' (Sitaropoulos, 1992:90), intended to meet different needs. A new law was designed from scratch and in 1991, the Law 1975/1991 on 'Entry-exit, sojourn, work, expulsion of aliens, recognition procedure of foreign refugees and other provisions' came into force.

This law was designed to curb illegal immigration and bring Greek policy into line with the strict immigration policies of the other western countries. The pivotal logic of the law was restrictive –not surprising, since the Ministry of Public Order was

entrusted with its design- and reactive in nature. As such it soon became object of severe criticism, since individual rights were not guaranteed and goals were not achieved. In 1998 two Presidential Decrees lead to the first regularization having ever taken place in Greece[17]. Bureaucracy, legal confusion and fear prevented the amnesty plan from having the desired results.

Against this past, the enforcement of Law 2910/2001 raised expectations. Indeed it provided the Greek state with a framework for systematic and organized approach to immigration related issues. The assignment of the policy's coordination to the Ministry of Internal Affairs constitutes a *prima facie* positive step. The new law in accordance with the international and European Union legal instruments intended to respond to modern needs (Papassiopi-Passia, 2004:44).

More specifically, it attempts to rationalize the procedures for granting residence and work permits; it includes for the first time provisions regarding naturalization requirements; it guarantees protection for migrants' rights and provides for their integration in the society (family reunification, access to education etc) etc (Hatzi, 2004; Papassiopi-Passia, 2004; Amitsis-Lazaridi, 2001). In practice these forward-oriented measures did not live up to the expectations they had raised. Successive amendments and supplements did not manage to rectify the underscored shortcomings –in personnel, in means etc. The second regularisation that took place on the grounds of the respective article in Law 2910/2001, simply reinforced the impression that migrants are objects of ambiguous legal provisions instead of subjects of rights (Hatzi, 2004:251).

A draft of a new Immigration Bill has been devised. Before we elaborate its provisions, it would be of great interest to ascertain the size and nature of the impact that the alteration of migration patterns and legislative arrangements had on the institution of citizenship and respective policies.

Becoming Citizen in Greece.

Greece is a jus sanguinis country. According to the discussed features of countries with such citizenship laws, this fact is revealing enough for the role of citizenship in the Greek polity.

Indeed, Greek citizenship is strongly attached to nationality. National origin determines admission to citizenship. Greek language constitutes a practical proof of

[17] For the regularization and its effects see Fakiolas, 2003.

evidence for nationality. The religious element is also implicitly tied to national origin (Baltsiotis, 2004:332). Consequently we speak of a particularly exclusive control mechanism, intended to achieve cultural unity through homogenization of the state members. This cultural integration should be seen through the lens of the agony that a nascent, fragile state suffers as it struggles to consolidate its existence[18]. The existence of diverse ethnic groups in its territory related to ethnic groups living in neighbouring states, not to mention the short distance from its ex conqueror, are considered as insurmountable obstacles, unless overcome.

The naturalization counterpart has been respectively affected. However with respect to naturalization policy in Greece there is a particular feature that permeates all periods: the discrimination between immigrants of ethnic and foreign origin as well as the discrimination between ethnic migrants, originating from different countries.

Studying Greek naturalization policy, we see that between the two World Wars all ethnic Greeks settling in Greece were eligible for acquiring the Greek citizenship[19]. This relaxed stance changed after World War II. In the Cold War era deprival of citizenship was the rule. Citizenship was granted only to some ethnic Greeks that arrived massively from Eastern Europe. On the contrary, ethnic Greeks from Turkey, Albania and Cyprus did not acquire citizenship status (ibid:313). Instead they were conferred a quasi-citizenship status, differentiated from that of citizenship only with regard to voting rights. The emerged issue was definitely resolved in 1999, when these quasi-citizens were massively enabled to be naturalized (ibid:315, ft20). As far as aliens originating even from prosperous western states are concerned, they are rarely naturalized. The 1955 codification brought no particular change.

Policy changes regarding naturalization take place after 1981. First of all, discrimination between aliens and ethnic Greeks fades, as new patterns of differentiated citizenship, such as EC citizens, arise. The 'one and only citizenship' principle comes to its end, while requirements regarding the residence's duration become more demanding. In '90s the number of naturalizations gradually increase and mainly state practices change.

[18] For a concise report of the challenges for the nascent Greek state, see Diamantouros, 2004:14-5. For a detailed analysis of the formation of the modern Greek state, see Diamantouros, 2002.
[19] For a brief report on the Pontian Greeks advent and intergration see Fakiolas, 2001.

In 1993 the first law regarding Returnees comes into force (2130/1993). Greece is one of the few countries able to accept the 'invited' ethnic migrants and grant them access to citizenship (Baltsiotis, 2004:318). By virtue of Law 2910/2001 requirements for admitting quasi-ethnic migrants are also relaxed. Nevertheless the state's stance against aliens of foreign origin remains the same.

The current situation.

Recently a new draft Immigration Bill came into being. This new Bill seals with its presence a series of related changes regarding issues arising from the juxtaposition of citizenship and migration. More specifically the new Code of Greek Citizenship was voted in November 2004; EU Race and Equality Directives have also been transposed in the Greek legal order; and now this law encompasses the precedent and more recent changes in a single piece of legislation.

The draft law includes provisions founded on the community *acquis*, such as Directives on family reunification (2003/86/EC); EU long term resident status for third country nationals (2003/109/EC); the package of antidiscrimination measures, namely Race (2000/43/EC) and Equality (2000/78/EC) Directives. Needless to refer to the country's conformity with provisions of internationally agreed statutes on human rights and migrant rights in particular.

In addition to this, the draft law purports to rationalize procedures and minimize required documents for residence and work permit, which henceforth constitute a single permit. Special permits for victims of trafficking are also provided. A comprehensive action plan on social integration is also explicitly referred in this draft law. No change has been noted though to the fees for the permit renewal.

As far as naturalization procedures are concerned we can still discern a more favourable stance towards ethnic migrants, e.g. no fee requirement for having their naturalization application examined. It is also striking that the requirements regarding naturalization are quite similar to those of acquiring the long term resident status (good command of Greek language; knowledge of Greek history and civilization; ethos and personality) without conferring upon the individual the same status and rights..

Summarizing the 'Greek case', the Greek state has used the institution of citizenship as a homogenizing mechanism, thus verifying our theoretical assumptions. Migration has had an impact on migration and naturalization policies to the extent that

citizens were pulled out of the ethnic migrants' pool. Furthermore, there seems to be a rather conservative transformation to citizenship status and rights, harmonized, we could say, with the one taking place in all other European Union member states. Therefore the Greek legislator soon will have to pay more attention to citizenship and naturalization legislative frameworks, as migration population increases, increasing along the population fraction that is constantly deprived of the right to participate in law-making and governance. Devising an inclusive citizenship soon will be required; proposals for a 'civic citizenship'[20] from the European Commission hint towards this direction (COM(2000)757). Because in a liberal democracy differentiated citizenship statuses do not fit.

VI. Concluding Remarks.

For a long time, citizenship has been a central tool of state sovereignty, an institution of significant -practical and symbolic- value. Nevertheless, forces of globalization in general, and the new migration realities in particular, intensified its inherent ambiguities, while creating new challenges for the nation state.

This paper addressed the problematic relation between citizenship in its current form and the contemporary migration reality. The interest focused on the fact that long term foreign residents are still deprived of the right to law making and governance in liberal democratic states, on the grounds of their national origin. This constitutes an exclusion, which in turn renders the integration part of immigration policy inefficient. The effects of this inefficiency are not confined only to migrants; they are extended to the society as a whole.

Therefore, reconfiguration of the institution of citizenship is a prerequisite for a successful integration policy. The new concept of citizenship has to be inclusionary, based on deterritorialized notions of rights and participation. Political rights and obligations have to be set apart from cultural particularity and difference. Because, as already said, in a liberal democracy differentiated citizenship statuses do not fit.

[20] Acquisition of core rights and obligations gradually over a period of years, so that eventually immigrants are treated in the same way as nationals of the host state, without being naturalized (COM(2000)757).

References

Abu-Laban, Y. "Reconstructing an Inclusive Citizenship for a New Millennium: Globalization, Migration and Difference", *International Politics*, Vol 37, Dec 2000, pp. 509

Amitsis, G-Lazaridi, G. (eds) *Legal and sociopolitical dimensions of migration in Greece*, Papazissis, Athens, 2001, (in greek)

Amitsis, G-Lazaridi, G. 'Policies of regulating migration in Greece' in Amitsis, G-Lazaridi, G. (eds) *Legal and sociopolitical dimensions of migration in Greece*, Papazissis, Athens, 2001, p. 23, (in Greek)

Babiniotis, G., *Dictionary of the New Greek Language*, Kentro Lexikologias, 1998 (in Greek)

Baltsiotis, V., 'Citizenship and naturalization in Greece of Migration: Contradictions-Phases of a dead-end policy' in Pavlou, M. & Christopoulos, D. (eds) *Greece of Migration. Social Participation, rights and citizenship*, Kritiki-KEMO, Athens, 2004, p.303 (in greek)

Bauböck, R., 'Introduction' in Bauböck, R (ed) *Transnational Citizenship: Membership and Rights in International Migration*, Aldershot, Edward Elgar Publishing Ltd, 1994a

Bauböck, R., *From Aliens to Citizens. Redefining the Status of Immigrants in Europe*, European Center, Vienna, vol. 17, Avebury, 1994b

Bauböck, R. "Towards a Political Theory of Migrant Transnationalism", *International Migration Review*, special issue, Vol. XXXVII, No 3, Fall 2003, pp. 700

Bosniak, L.S. 'Human Rights, State Sovereignty and the Protection of Undocumented Migrants under the International Migrant Workers Convention', *International Migration Review*, special issue, vol. xxv, no 4, 1991, p. 737

Brochmann, G. *European Integration and Immigration from Third Countries*, Scandinavian University Press, Oslo, 1996

Brubaker, W.R. *Immigration and the Politics of Citizenship in Europe and North America*, University Press of America, 1989

Brubaker, W.R. "Introduction" in Brubaker, W.R. *Immigration and the Politics of Citizenship in Europe and North America*, University Press of America, 1989, pp 1-27

Carens, J.H. "Membership and Morality: Admission to Citizenship in Liberal Democratic States", in Brubaker, W.R. *Immigration and the Politics of Citizenship in Europe and North America*, University Press of America, 1989, p. 31

Castles, S. & Davidson, A., *Citizenship and Migration: Globalization and the politics of belonging*, Macmillan Press, London, 2000

Çinar, D., 'FromAliens to Citizens: a comparative analysis of rules of transition' in Bauböck, R., *From Aliens to Citizens. Redefining the Status of Immigrants in Europe*, European Center, Vienna, vol. 17, Avebury, 1994b, p. 49

Craig, P. & de Burca, G. (ed) *EC Law. Text, Cases & Materials*, Oxford University Press, Oxford, 1997

Diamantouros, N. 'Preface', in Pavlou, M. & Christopoulos, D. (eds) *Greece of Migration. Social Participation, rights and citizenship*, Kritiki-KEMO, Athens, 2004, p. 9 (in greek)

Diamantouros, N. *The beginning of constructing a modern sate in Greece (1821-1838)*, Cultural Foundation of National Bank, Athens, 2002 (in Greek)

Fakiolas, R., 'Integration of Pontian Greeks in the Greek Society' in Amitsis, G-

Lazaridi, G. (eds) *Legal and sociopolitical dimensions of migration in Greece*, Papazissis, Athens, 2001, p.129 (in Greek)
Fakiolas, R. 'Regularizing undocumented immigrants in Greece: procedures and effects, *Journal of Migration and Ethnic Studies*, vol. 29, no 3, 2003, p. 535
Giddens, A., *The Nation State and Violence*, University of California Press, Berkeley1987
Guimezanes, N. 'Acquisition of nationality in OECD countries, in OECD*, 'Trends in International Migration. Annual Report*, OECD, 1995, p. 157
Guiraudon, V., "European Courts and Foreigners' Rights: A Comparative Study of Norms Diffusion", *International Migration Review*, Vol. 34, No 4 (Winter 2000), pp. 1088-1125
Guiraudon, V. & Lahav, G., "A Reappraisal of the state sovereignty debate: The case of Migration Control", *Comparative Political Studies*, Vol. 33, No 2, March 2000, pp. 163-195
Hammar, T., "Citizenship: Membership of a Nation and of a State", *International Migration*, Vol. xxiv, No 4, Dec 1986, pp. 735-747
Hammar, T., "State, Nation and Dual Citizenship" in Brubaker, R (ed) *Immigration and the politics of citizenship in Europe and North America*, University Press of America, London, 1989, pp 81
Hammar, T., *Democracy and the Nation-State: aliens, denizens and citizens in a world of international migration*, Aldershot, Avebury, 1990
Hardy, S. & McCarthy, J., 'After Amsterdam: EU citizenship-myth or reality', *Immigration & Nationality Law & Practice*, vol. 11, no 4, 1997, p. 118
Hatzi, C., 'Aliens as subject of rights in Greek legal order' in Pavlou, M. & Christopoulos, D. (eds) *Greece of Migration. Social Participation, rights and citizenship*, Kritiki-KEMO, Athens, 2004, p.233 (in greek)
Ioannou, K.-Economides, K.-Rozakis, C.-Fatouros, A., *International Public Law. Subjects of rights and obligations in the international legal order*, Sakkoulas, Athens, 1990 (in greek)
Jacobson, D (ed) *Rights across Borders*, John Hopkins University Press, Baltimore, 1996
Joppke, C "Immigrant challenges to the Nation State", in Joppke, C (ed) *Challenge to the Nation State*, Oxford University Press, Oxford, 1998 pp. 5-46
Joppke, C (ed) *Challenge to the Nation State*, Oxford University Press, Oxford, 1998
Katrougalos, G., 'Social rights of illegal aliens' in Amitsis, G-Lazaridi, G. (eds) *Legal and sociopolitical dimensions of migration Greece*, Papazissis, Athens, 2001, p. 69 (in greek)
Kostakopoulou, T *Citizenship, identity and immigration in the European Union. Between past and future*, Manchester University Press, Manchester, 2001
Levitt, P.-DeWind, J.-Vertovec, S., (eds.)"Transnational Migration: International Perspectives", *International Migration Review*, special issue, Vol. XXXVII, No 3, Fall 2003
Levitt, P.-DeWind, J.-Vertovec, S., "International Perspectives on Transnational Migration: An Introduction. *International Migration Review*, special issue, Vol. XXXVII, No 3, Fall 2003, pp 565-575
Marshall, T. *Citizenship and social class*, Cambridge University Press, Cambridge, 1950
Martiniello, M. "Citizenship of the European Union: A Critical View", in Baubock, R., *From Aliens to Citizens*, Aldershot, Avebury, 1994, pp 29
Meehan, E., *Citizenship and the European Community*, Sage, London, 1993

OECD, *Trends in International Migration 2003*, Continuous Reporting System on Migration, Annual report, SOPEMI, 2004
Ohmae, K., *The Borderless World*, HarperCollins, New York, 1991
Ohmae, K., *The End of the Nation-State: The Rise of Regional Economies*, HarperCollins, London, 1995
Oliver, D. & Heater, D. (eds.) *Foundations of Citizenship*, Harvester Wheatsheaf, 1994
Papademetriou, G 'The Charter of Fundamental Rights. Station in the institutional maturing of European Union' in Dalis, S. (ed) *From Amsterdam to Nice*, Kritiki, 2001, p.201
Papassiopi-Passia, Z., *Law of Aliens' Condition*, Sakkoulas, Athens, 2004
Pavlou, M. & Christopoulos, D. (eds) *Greece of Migration. Social Participation, rights and citizenship*, Kritiki-KEMO, Athens, 2004 (in greek)
Pettigrew, T., "Reactions Towards the New Minorities of Western Europe", *Annual Review of Sociology*, Vol. 24, 1998, pp 80
Preus, U., "Problems of a concept of European citizenship", *European Law Journal*, vol 1, no 3, 1995
Rawls, J., *A Theory of Justice*, Harvard University Press, Cambridge, 1971
Sassen, S., *The De-facto Transnationalizing of Immigration Policy*, in Joppke, C (ed) *Challenge to the Nation State*, Oxford University Press, Oxford, 1998, p49
Sassen, S., *Losing control?* New York Columbia University Press, 1996
Sitaropoulos, N., 'The new legal framework of alien immigration in Greece: a draconian contribution to Europe's unification', *I&NL&P*, vol. 6, no 3, 1992, p89
Soysal, Y *Limits of citizenship: migrants and postnational membership in Europe*, The University of Chicago Press, Chicago, 1994
Soysal, Y. 'Changing Citizenship in Europe' in Cesarani, D. & Fulbrook, M. *Citizenship, Nationality and Migration in Europe*, Routledge, London, 1997 p. 17
Torpey, J 'Coming and Going: On State Monopolization of the Legitimate "Means of Movement"', *Sociological Theory*, 16:3, November 1998, pp 239-259
Walzer, M. *Spheres of Justice: A Defense of Pluralism and Equality*, Martin Robertson, New York, 1983 (reprint Blackwell, Oxford, 1996)
Weiner, M. 'Ethics, National Sovereignty and the Control of Immigration', *International Migration Review*, Vol. xxx, No 1, 1996, pp. 171-197
Wieviorka, M. 'Introduction', στο Wieviorka M., Bataille P., Coupe K., Martuccelli D., Peralva (ed), *Racisme et xénophobie en Europe: une comparaison internationale*, La Découverte, Paris, 1994