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CITIZENSHIP AND EXCLUSION
Radical Democracy, Community, and Justice.
Or, What Is Wrong with Communitarianism?

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1. PARADOXES OF SOVEREIGNTY AND CITIZENSHIP

Ours is a time full of paradoxes. The development of the modern state was characterized by a specific monopolization and unification of powers. However, this development, dramatized as it was in the juridico-political myth of absolute, unitary, and indivisible state sovereignty,\(^1\) seems to be over. I see four main paradoxes of state sovereignty in an epoch marked simultaneously and contradictorily by a process of erosion and strengthening of “nation-states”: (1) in a world of fast and thorough economic, ecological, political, and informational globalization, we are confronted with “ethnic revivals,” “new tribalism,” “ethnic cleansings,” the implosion of states, and the like. (2) The myth and practices of indivisible sovereignty of nation-states contradict the developments of internal delegation (“devolution of state sovereignty” to states, provinces, regions, communities) and external delegation (“reconstruction of state sovereignty”) to suprastate levels and international organizations that are simultaneously going on. (3) The myth and practices of unitary sovereignty, focused in the nation-state and claiming a monopoly in legislation, jurisdiction, currency, taxation, and legal enforcement, contradicts the simultaneous disentanglement and delegation of those powers (e.g., European currency, European courts). (4) The myth and practices of unlimited, absolute sovereignty of the nation-state contradicts the growing factual, moral,\(^2\) and legal external limitations that complement the well-known internal limitations (liberal-democratic constitutions). Limitations by international law, international covenants, and courts, however precarious they may be, are increasingly followed by proclamations and policies of intervention

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211
in cases in which the most elementary human rights are seriously and blatantly violated: international protection of “civil rights” versus state sovereignty and the old principle of nonintervention in the “internal” affairs (e.g., Helsinki conference on peace and security, Cambodja, Iraq/Kurdistan, Ex-Jugoslavia); democratic “political rights” versus nonintervention (e.g., Haiti).

As I see them, the most important paradoxes of citizenship coincide with these developments and can be summarized as follows: (1) within states, the tendency toward universalist inclusion is relatively advanced (legal and political equality among citizens). However, this equality of inclusion has always been, and still is, intrinsically interwoven with systematic exclusion (legal and political inequality between citizens and noncitizens (foreigners, metics, denizens, etc.). (2) Noncitizens and denizens increasingly get rights that, traditionally, have been reserved to citizens, and, by this, citizenship does lose much of its traditional legal, political, and social importance. Moreover, it is exactly this development that adds additional momentum to the tendency of exclusion. (3) Citizenship is developing in two ways into a multiple and multilayered concept: political citizenship is complemented by economic, industrial, and social citizenship (many spheres of citizenship), and political citizenship is gaining importance on different, increasingly suprastate levels of political integration (many levels of political citizenship). However, the idea and practice of democratic self-determination and democratic citizenship is still predominantly linked and limited to state membership and “nationhood.” (4) As a consequence of migration and processes of European unification (multicultural societies and European citizenship), one finds a strong cultural and political pressure even in so-called nation-states toward a disentanglement of ethnicity, culture, and nationhood from citizenship. Yet at the same time, in a reactive move, one finds the traditional superposition and amalgamation of ethnic, “racial,” cultural, and national identity and citizenship becoming even stronger.

In practical policies, those paradoxes require a flexible response. Theoretically, they ask for quick and thoroughgoing rethinking. It is urgent, from both a descriptive and an explanatory perspective, as well as from a normative one, to conceptualize sovereignty as a “bundle” of powers that can be divided, limited, delegated. Citizenship has to be thought of as a multiple and multilayered concept. Predominant legal and political theory as well as political philosophy seem to have much trouble even starting such a process. They are—as always—in the rearguard: not only reactionary and (neo)conservative theory but also most liberal, communitarian, and (neo)republican theories of democracy.

By way of illustration, I shall consider the exemplary difficulties Michael Walzer has, as a radical social democrat, in tackling these paradoxes of
citizenship. Walzer is, for two reasons, one of the more interesting authors in this regard: his pluralist democracy is opposed to strong particularism and to all conservative versions of communitarianism and does accept "reiteratively universalist" claims of justice and morality; he breaks the "eardeafening silence" or nearly complete neglect of problems of membership and exclusion in predominant liberal theories of justice (e.g., Rawls, Dworkin). (Indeed, he was one of the first in recent political philosophy to highlight this perplexing problem.) Nevertheless, for ethical-political reasons, he opts, with regard to the first paradox, for policies of fairly closed borders. With regard to the second paradox, Walzer attacks, for democratic reasons, all versions of "second class citizenship" for extended periods. He therefore is in favor of strong first admission selection. With regard to the third paradox, Walzer thinks that "admission and exclusion are at the core of communal independence. They suggest the deepest meaning of self-determination" (1983, 62). He states that to give up the state "is to give up any effective self-determination" (p. 44). The hard core of his ethical-political arguments against open borders shows that Walzer, with regard to the fourth paradox, clings to the superposition of ethnic, cultural, and national identities and citizenship: (i) closure is thought to be necessary and legitimate to defend the shared meanings, values, and ways of life of specific (ethnic, cultural, religious, linguistic, historical) political communities or states; (ii) closure is necessary and legitimate for the reproduction and development of collective political identity and attachment; (iii) closure is necessary and legitimate for the development of socially or culturally embedded, rich personalities.

In this essay I first summarize recent discussions in moral theory on "free movement" and show that there are strong moral reasons in favor of policies of "fairly open borders." Next, I present a short sociological critique of the four principal arguments by which Walzer tries to show that the (nation-)state is the adequate unit of political integration and democratic self-determination. Finally, I will try to develop a multilayered concept of citizenship that allows one, at least in principle, to combine the moral requirements of universalist justice with the requirements of (different versions of) radical democracy and particular forms of life.

2. CITIZENSHIP AND EXCLUSION: MORAL, PRUDENTIAL, REALIST, AND ETHICAL ARGUMENTS

In international relations of exploitation, oppression, and discrimination, citizenship has always been and still is the single most important criterion of
inclusion and exclusion (see Brubaker 1992). Notwithstanding the strong universalist language of human rights and the internationalist rhetoric in the liberal tradition ("free movement of capital"), the socialist tradition ("proletarian internationalism"), and the anarchist tradition, those exclusionary consequences have been widely ignored in the dominant theories of justice.7

Most recent moral theory has as its common core some version of a universalist egalitarianism (see Kymlicka 1990, 5; Goodin 1992, 7). The exclusionary effects of citizenship are incompatible with this "egalitarian plateau." The egalitarian principle of equal liberties serves as a criterion of radical critique of all ascriptive privileges. Citizenship laws combine, in different ways, criteria of birth or descent (jus sanguinis) and territory (jus soli). These ascriptive criteria are morally no more defensible than all the other, like kinship, sex, age, region, residence, language, habits, culture, lifestyles, gender, religion, nationhood, social class, membership in churches, parties, and so on. "Citizenship in Western liberal democracies is the modern equivalent of feudal privilege—an inherited status that greatly enhances one's life chances. Like feudal birthright privileges, restrictive citizenship is hard to justify when one thinks about it closely" (Carens 1987, 252; see also Carens 1992; Dummet 1992, 171; Brubaker 1992, 31f; Walzer 1983, 55, 1992, 96f; Schuck and Smith 1985, 2). The universalism of the moral point of view, even in its thoughtful and "weak" versions, which I favor,8 does not allow moral privilege to the members of particular communities.

Following arguments from justice, rather than arguments for free mobility as a human right,9 I think one can plausibly show that the existing inequalities within and between states cannot be morally defended. Carens, Weithman, and Poggi have reconstructed Rawls's (1971) argument to show that one should understand the original position globally: the difference principle, then, requires far-reaching international redistribution of resources and rewards. Were one to introduce vouchers for the choice of citizenship in a particular state into Dworkin's idea of an ambition-sensitive and endowment-insensitive auction so as to obtain, initially, a fair distribution of resources, one could, most probably, get similar results.10 The construction of such models is intended to show what a just distribution in an ideal, global world would look like. They would most likely demonstrate an enormous gap between those ideal distributions and the existing international relations of exploitation, oppression, and exclusion. A just distribution of resources within states would imply redistribution of control over resources radically incompatible with the usual accommodation with capitalist market economies. The international consequences would be, obviously, even more radical.
Moral constructions of ideal worlds are intended to show what justice requires; they do not tell us directly what to do in nonideal worlds. My sketch of an argument does not issue in any direct and unconditional “presumption for free migration” (Carens 1992, 25). It shows, rather, (i) directly, as the first and preferred option, the urgent requirement of radical international redistribution of resources (the forms of which I cannot even touch on here). It also shows (ii) indirectly, as a second best option, the moral requirement of fairly open borders, open to the degree to compensate for policies of international redistribution, are not intended, implemented, or do not have any success and significant impact. Justice, not charity or mutual aid, asks for fairly open borders.

Moral arguments are not the only practical arguments. The world of practical reason and judgment is a complex one. Moral arguments have to compete with prudential arguments, with realist arguments, and with ethical-political ones. As we are confronted with many serious theoretical and practical tensions between them, it is useful to distinguish these arguments analytically. In all those hard cases, one needs not only prudence but some kind of priority rules.

Prudential arguments can be in favor of open borders in all conditions in which open borders are in the well-informed, long-term rational interest of the particular state in question. But prudential arguments are always conditional. In the present global situation, I think it is unproblematic to state that arguments about interest are mainly used by defenders of fairly closed borders: collective welfare chauvinism.

The status of political realism as a distinct normative theory is questionable, and realism does not, in itself, have any intrinsic direction. However, realist arguments at least remind us of two points: (i) “ought implies can” and (ii) moral arguments should take into account the most probable and expected consequences of just action: ethics of responsibility versus “justice be done, though the heavens fall.” From numerous political and theoretical statements, we know the realist arguments against open borders all too well: overwhelming numbers of migrants and refugees (“flood”); public order problems; unemployment and ethnic segmentation of labor markets; stress or breakdown of the social security systems; serious overload of public social services (education, housing, health, transportation, etc.); serious political effects (welfare backlash, xenophobia, racism, and immigrant fundamentalism); cultural Überfremdung (alienation). In this article I cannot discuss the “reality” of these well-known scenarios for disaster. For the sake of argument, I accept that they are not just black prophecy playing on fear and prejudice. And I take it for granted that the opening of borders is not an adequate policy against international inequalities.
Realist arguments, if applied against open borders, lead to two conclusions: (i) it is apparent that radical international redistribution is the first and most important option in the struggle against structural poverty and inequality. To the degree that this policy does not succeed, one of the most important causes of forced migration cannot be removed and the legitimacy of all possible other normative arguments in favor of closed borders will be severely undermined as a consequence. (ii) If one defends the opening of borders as “a second best stop-gap,” one has to tackle the apparent tensions between moral requirements of justice and realist requirements of prudence. Defensible policies of open borders should take consequences into account. Neither Carens nor Goodin, therefore, opt for an immediate and complete opening of all borders; I have used the phrase “fairly open” borders. But if it comes to practical immigration, refugee, and naturalization policies, does not that mean that the seemingly huge differences between positions in normative philosophy become irrelevant? Does not “fairly open” actually mean exactly the same as “fairly closed”? I do not think so. First of all, these positions influence the way in which consequences are conceived, discussed, and “taken into account”; second, the direction of those policies differs considerably: from a moral point of view, one asks, looks intensely for, and tries out “more, much more” (Carens). Realist arguments (in their traditional mixture with prudential and ethical-political arguments) currently mean less, much less immigration, asylum, and naturalization.

Prudential and realist arguments for closed borders are usually mixed up with different versions of ethical-political arguments (see the Walzerian version of communitarianism in section 1). One can speculate that, in an imagined ideal world, the requirements of morality and Sittlichkeit would complement each other harmoniously. In our world, and particularly in the case of borders and citizenship, their tensions are sharp and visible. Walzer, in his characteristic clarity, clearly mentions these tensions (see 1983, 28f). On the other hand, he recognizes, with a disarming openness, the limits of his communitarian approach: “I can’t move beyond. To do that would require a different theory which would take as its subject not the common life of the citizen” (p. 30). If communitarianism, for all its versions, pretends to be an identifiable position in practical philosophy, then it must mean that in all hard cases the particularist requirements of community must trump the universalist ones of justice. This priority rule clearly contradicts the strong moral intuitions that are elaborated in modern universalist moral theories and international and constitutional law: universalist principles and rights should not only trump prudentialist utility but also the ethics of particular communities. Otherwise, morality would be no more than a thin ideological mask of ethical or utilitarian welfare chauvinism.
3. SOCIOLOGICAL CRITIQUE OF A COMMUNITARIAN DEFENSE OF CLOSED BORDERS

Walzer represents one of the most liberal and pluralist versions of communitarianism. Therefore, he cannot be criticized for the usual theoretical and historical myths that characterize the conservative or protective versions: the basic concept of community remains vague; the historical role of violence and community construction or building is ignored in pictures of an organic development of communities; internal homogeneity of communities is postulated and cross-cutting communal allegiances and collective identities are forgotten; in a kind of retrospective nostalgia, communities are thought to be harmonious (traditional) Gemeinschaften and confronted with conflict-ridden and (modern) strategic Gesellschaften; cultural communities are constructed without any analysis of structural antagonism and conflict, particularly class antagonism and conflict; the idea of shared meaning, of shared cognitive and normative frames and interpretations is very much overstressed. Nevertheless he does share four presuppositions with all hard-core political communitarians. These are not very plausible and can easily be refuted:

1. Superimposition of linguistic, cultural, religious, ethnic, national, political communities and the state. In sociology as well as in normative theory, broad container-concepts of “ethnicity” preclude a detailed analysis of the analytically different but historically overlapping criteria of exclusion and possible community formation. Elsewhere, I have tried to construct, from a perspective of inequalities, a disaggregated scheme of criteria of exclusion and corresponding practices and legitimations of exclusion. From a perspective of identity, culture, and collective action, I also tried to show under which circumstances particular communities develop can be constructed. Even in Walzer one can find the usual mix of ethnic, linguistic, territorial, cultural, religious, and national communities and states common to communitarian legitimations of exclusion. It is obvious, however, that some of these communities are not only separated analytically but historically as well. They do not always peacefully overlap. Usually they are not coextensive, and they conflict with one another.

2. Walzer, of course, knows that states are not necessarily, or even commonly, ethnic or cultural homogeneous entities. Nevertheless, he does speak of states as “nations” or “communities” all the time, even when this is obviously false. This is not just a conceptual weakness, it plays a crucial role in the first (hermeneutic) of the four arguments in favor of states as most appropriate unities for arguments about distributive justice. Without it he would not be able to write these normatively crucial sentences: “the political community is probably the closest we can come to a world of common
meanings. Language, history, and culture come together (come more closely together here than anywhere else) to produce a collective consciousness” (1983, 28). States would only be legitimate, in this regard, as worlds of common meaning, shared languages, and common cognitive and normative frames. But this link is theoretically weak and historically more than dubious. It is obvious that historical states differ in degree of linguistic and cultural homogeneity and that these differences are very important. For three reasons, Walzer’s statement must be refuted: (i) it is obviously wrong to assume, even under present conditions, that a “stateless world” would be a “world without particular meaning” (1983, 34), inhabited by “radically deracinated men and women” (p. 39); (ii) his argument, obviously, does not hold for multicultural and bi- or multilingual states; (iii) there are many inter-“national” linguistic-cultural communities, old ones as well as new (religious, professional, artistic, political), and Walzer himself knows perfectly well that many smaller “infra-state units” show much stronger “worlds of common meaning” and much stronger affiliation and commitments.

3. Not all communitarians—and not only communitarians24—conceive of the state as a political community. Walzer halfheartedly, but no less misleadingly, treats the state in analogy with “neighborhoods, clubs and families” (pp. 35-42). Historical states are not such warm, horizontal Vergemeinschaftungen or free and democratic associations, based on consent, but rather cold vertical institutions, based not on free entry but on enforced membership and physical violence. Strictly speaking, they are not “associations” at all, but institutions. Of course, there are differences in this regard between states, and these differences are important. But even “nation-states” that are culturally fairly homogeneous and rather democratic have been states in class societies. To evade the connotations of coldness, vertical hierarchies, bureaucracy, centralism, cultural normalization, and illegitimate domination so commonly associated with states, Walzer misleadingly prefers to speak of “countries” or “political communities.” He may be perfectly right in stating that “the community is itself a good—conceivably the most important good” (p. 29), but this communitarian conviction probably tells less in favor than against the state, or more precisely, it could be mobilized in its favor only if and to the degree in which, empirically, states were to resemble the normative ideals in the books of democratic consent-theory. If one recognizes that states are not culturally homogeneous or democratic political communities, the moral and ethical legitimacy of their exclusionary “right to communal self-determination” gets severely undermined.

4. Walzer therefore tries to back up the ethical legitimacy of states by ascribing to them a crucial role in the defense and reproduction of cultural diversity:
Neighborhoods can be open only if countries are at least potentially closed. . . . Neighborhoods might maintain some cohesive culture for a generation or two on a voluntary basis, but people would move in, people would move out; soon the cohesion would be gone. The distinctiveness of cultures and groups depends upon closure and, without it, cannot be conceived as a stable feature of human life. If distinctiveness is a value . . . then closure must be permitted somewhere. (pp. 38-9)

To put it crudely, Walzer predicts, as a necessary result of open borders, some kind of culturalentropy. (Walzer’s famous second law of cultural thermodynamics?). This, in at least three respects, is a curious argument:

(i) That cultural distinctiveness depends on one or other form of closure may, in a very general sense, be true. However, the phrase is much too vague to be useful in either empirical or normative arguments: first, not all cultural distinctions can be defended from a liberal-democratic perspective (e.g., classist, elitist, racist, sexist, etc.). Second, one should specify the type or form of closure: closure by free consent (from insiders and outsiders) differs radically from enforced closure by custom, social convention, and law (backed by threat or application of physical violence). Walzer sees clearly that enforced closure “replaces commitment with coercion. . . . So far as the coerced members are concerned, there is no longer a community worth defending” (p. 39). But his own argument depends upon a completely unspecified conception of enforced closure by the state. If cultural distinctiveness would thrive totally on state-enforced closure, the postmodernist appraisal of “difference” would have to be judged from a different angle. Third, one should be sensitive to the social context in which closure takes place: closure under conditions of “rough” equality differs radically from closure under conditions of systematic exploitation, oppression, discrimination, and exclusion.

(ii) Historically, with modern capitalism, the state has always been the strongest enemy of cultural diversity. Internally, the modern nation-state acted as a radical cultural unifier, creating “the nation” by making “peasants into Frenchmen,” using outright violence to crush cultural and national minorities. It applied well-known educational, pedagogic, and civilizing strategies of normalization and discipline in order to erase other languages and/or dialects in creating the unified high language; to crush rival pagan and other religions by creating religious homogeneity; to crush competing peasant, popular, craft cultures, and frames of meaning and interpretation. The creation of Walzer’s “common world of meaning,” required an erasure of rival memories and histories so as to produce the dominant “history of the nation,” and so on. Externally, modern nation-states have acted, as a byproduct of their direct economic and political colonization and conquest of the world, and usually as its main ideological myth, as large-scale cultural imperialists (complete extinction or radical submission and enforced adapta-
tion of all “native” peoples and cultures). It is a strange irony of history then that Walzer entrusts to those very states the heroic role of champions and defenders of cultural diversity.

(iii) It is one thing to recognize the enormous role of force, violence, and power in the historical formation of linguistic, religious, ethnic, cultural, and so on, homogeneity. It is quite another to argue empirically and normatively for the necessary role of enforced closure for the preservation and development of cultural diversity. *Empirically*, Walzer’s prediction of cultural entropy is not a very sound one: contrary to the common myth of purity and organic development of national cultures, most high cultures in history have been the result of hybrid crossings. Contrary to conservative fears of one unified “Coca-Cola” world-culture, one finds even in the present world context of severe economic, cultural, and political inequalities a rich variety of newly created cultures. *Normatively*, conservationist arguments may be appropriate with respect to national and cultural minorities that would otherwise become extinct by the overwhelming power of imperialist majorities. But for me, it is strange to see those arguments applied with respect to exactly those cultural majorities, which, for the last 500 years or so, conquered the world culturally as well as economically and politically. The “threat” of the poor immigrants should be analyzed in the context of power asymmetries to put it in context. Where does this “fear” for cultural encounter, so typical for conservatist and neonationalist/racist politics, come from in Walzer’s political theory, which otherwise stretches pluralism to its limits?

In Walzer’s *Spheres of Justice* (1983), these four communitarian arguments are backed by the traditional argument in favor of state sovereignty. As alternative to sovereign states as units of political decision making, Walzer allows only for a choice between “two forms of simple equality with regard to membership” (p. 34) and dismisses both of them. The choice would be between a global state (“world state” [p. 48], “global socialism” [p. 34]) or a world without states, “global libertarianism.” *Tertium non datur*. The world-state option would mean a “world without particular meanings and without political communities” (p. 34), global libertarianism would also be a world without political communities, a world in which “no one was a member” or, more precisely, a world of many small parochial states: “if states ever became large neighborhoods it is likely that neighborhoods will become little states” (p. 38). “To tear down the walls of the state is not . . . to create a world without walls, but rather to create a thousand petty fortresses” (p. 39). Even if one were to accept all this, one is still not forced to accept, without alternatives, the world of the big exclusionary fortresses of the existing states as the lesser evil. Walzer, in his struggle against simple equality, falls prey to the simple conception of absolute, indivisible sovereignty that I have already criticized.
In fact, we already live in a world with limited, delegated, and divided sovereignty rights, a world in which units of political decision making very much cross-cut and overlap each other (neighborhoods, communities, cities, regions, states, federal republics, unions, united nations). And it is precisely this kind of constellation that should be argued for morally. I do agree with Walzer that an effective fight against parochial closure does, indeed, require some “kind of largeness” (p. 39). However, not just states are able to counterbalance this trend, but all inter-local and inter-national units. The ideal of democratic political self-determination tells us little about the adequate territorial units, and if it does tell us something, it is that it is in favor of smaller units.

So we may conclude that the hermeneutic, cultural, social, and political arguments for the ethico-political justification of the right of states to closure do not stand up to critical scrutiny. And we are now in a position to understand why Walzer is forced to talk so often in a crypto-normativist way: he wants states to be what they historically and actually never have been—linguistically and culturally homogeneous worlds of common meaning, free associations based on democratic consent. Only in this way is he able to link state sovereignty to the democratic principle of self-determination or “communal self-determination” and can he say, as already quoted, that “to give up the state is to give up any effective self-determination” (p. 44).³⁰

4. HOW TO COMBINE THE REQUIREMENTS OF UNIVERSALIST JUSTICE AND RADICAL DEMOCRACY

Forms of democracy stronger than those predominant in developed capitalist states should be favoured for four reasons: (i) political democracy itself is, intrinsically, a form of good life; (ii) the reproduction of thin democracy asks for stronger forms of political allegiance than it can create by itself; (iii) ecological disasters and the destruction of nature can be prevented, in a democratic way, only by stronger forms of democracy;³¹ (iv) radical redistributions, within and between states, can be realized, legitimately and effectively, only in stronger democracies. Yet all known historical forms of stronger democracy and most theoretical models of republican, neorepublican, and communitarian democracy have been linked with rigorous policies of exclusion. The development of theoretical models of “strong,” “empowered” democracy, “pluralist republicanism,” “associational,” “associative,” or “liberal-socialist” democracy has, up till now, not sufficiently dealt with this problem.³²
Recently, as a consequence of growing numbers of migrants and refugees, "the contradiction between the universalist principles of rule of law and democracy on one hand, and the particularist claims to integrity of given forms of life, on the other hand" (Habermas 1992, 632f) has become greater. Not each "ethos" is worth defending. The confrontation between liberalism and communitarianism has shown that one always has to ask: Which communities? (see Kymlicka 1988; Walzer 1990b; Cunningham 1991). The tension between moral requirements and ethical-political discourse should be approached, as I stated above, from a qualified priority for morality. Many authors, starting from similar considerations, have analyzed the consequences for the internal relations within communities. Conservative or protective communitarianism is criticized for (i) a lack of individual autonomy and the freedom to choose; (ii) not leaving any, or enough, room within communities or traditions for distance, criticism, rebellion, conflict, and change; (iii) ignoring all forms of structural inequalities inside communities (exploitation, oppression, discrimination, exclusion); (iv) lack of civil rights and civil culture; and (v) lack of democratic political rights and culture. Normatively, a "third" position alongside liberalism and communitarianism emerges from this criticism, something like a liberal-democratic communitarianism or a communitarian liberalism. But even within this evolving tradition, no serious attention has as yet been paid to the problematic external relations between communities: (i) parochialist closure and (ii) all forms of power-asymmetries between communities, most particularly, domination/oppression and exclusion.

Bringing together both lines of argument (for democracy and community), a conceptual clarification and normative-theoretical rethinking of the relation of democracy to particularist (ethnic, cultural, national) identities or communities and citizenship and democracy, remains urgent. In other words, we have to rethink the relations between the ethnic and civic aspects of modern nations (A. D. Smith).

4.1 Disentanglement of Citizenship from Ascriptive "Characters" and Identities

Any morally defensible concept of democratic citizenship ought to start from universalism. Within states, universal inclusion is required; between states, all forms of morally illegitimate closure are to be criticized. As a first step, therefore, citizenship ought to be disentangled from ascriptive criteria and identities (particularly from descent, colour, sex, ethnicity, nationhood). This is what I have suggested above. Its consequences for concepts of citizenship
in political philosophy and legal theory have been worked out by Carens, Kymlicka, and Habermas, and by Brubaker, Heather, Meehan, and others.

Carens (1993), following Habermas, distinguishes sharply between “two cultural contexts: a group culture, like the culture of a religious or ethnic group, and the public political culture of a liberal democratic society” (p. 25). He distinguishes “between those aspects of the public culture of a particular democratic society that are required by liberal democratic principles . . . and those aspects of a society’s culture that reflect its particular history, traditions, and forms of life but cannot be construed as ways of instantiating the requirements of liberal democracy” (p. 23). “The constitutional principles rooted in a political culture” are an expression of moral universalism, the substantive and concrete, richer “ethical-cultural form of life as a whole” refers to the ethical-political discourse.

The most promising application of Habermas’s differentiated discourse theory (1992), up till now, can be found in his treatment of citizenship and national identity. After criticizing neorepublican and communitarian conceptions of constitution, politics, and citizenship, he argues for a complete analytical separation of “Ethnos” and “Demos”: an “unfastening of the semantic link between citizenship and national identity” (p. 634) and even for a relatively fargoing historical disconnection. With the French Revolution, he argues, ethnic cement was replaced by a “democratic community of consent” (p. 636). “The nation of citizens finds its identity not in ethnic-cultural commonalities,” but in democratic procedures, talk, and decision making. Historically overstretching his case, he continues: “Here the republican component of citizenship disengages itself completely from its affiliation to a pre-political community (Gemeinschaft) integrated by descent, shared tradition and common language” (p. 636).

Whereas in 1983, Walzer seems completely committed to the conceptual and historical connectedness of citizenship with ethnicity and nation/state, his later position becomes much more sophisticated, as in his in 1990 and his 1992 article on civil society: “The fourth answer to the question about the good life” prefers the setting of “the nation, within which we are loyal members, bound to one another by ties of blood and history” (p. 96); its “understanding of membership is ascriptive; it requires no political choices and no activity beyond ritual affirmation.” In a much more distancing treatment, he sees that “in time of trouble, it can readily be turned against other nations, particularly against the internal others: minorities, aliens, strangers. Democratic citizenship, worker solidarity, free enterprise and consumer autonomy—all these are less exclusive than nationalism. . . . The nature of nationalist fervor signals the inadequacy” (p. 97). In his favorite
“pluralist perspective” (p. 98), the civil society is a setting of settings, giving some hope to domesticate nationalism (101), particularly as international civil society.

In weaker versions of this disentanglement, common language and history are still accepted as legitimate criteria, in stronger versions they are not crucial anymore for the concept and practice of democratic citizenship. Historically, some version of the disentanglement from ascriptive criteria and identities has become a crucial element in the myth and has been, to a lesser degree, in the constitutions and practices of French, American, and Swiss republicanism.

As a second, much more contested, step, democratic citizenship ought to be disentangled from citizenship as state membership. Historically, some version of this type of disentanglement is at the root of all versions of economic, industrial, or social (associational) democracy and of all forms of local, town hall, provincial political democracy as well. In recent political philosophy, the conceptual disentanglement is perhaps most clearly stated by Habermas.

Political philosophy, with the usual time lag, reflects practical processes, forcing us to disconnect democratic citizenship from both "ethnicity/nationhood" and from state membership. This is quite obvious in the case of European "unification." At the same time, this case reminds us of the enormous practical tensions and contradictions the reformulation of collective political, particularly national, identities bring with them in an age of democratic pluralism, multiculturalism, immigration, and the formation of inter-"national" political units. Only extreme right-wing neonationalist and conservative philosophy and politics can openly avoid this dilemma. The hidden neonationalist ideology of conservative parties and governments, at least in Europe, is put under much stress, and liberal, democratic, and socialist positions have to come to terms with these tensions.

4.2 Thick or Thin Concepts of Citizenship?

Different Citizenship Statuses

The ugly internal consequences of republican concepts of citizenship are criticized in an excellent way by Benjamin Barber (1984, chaps. 8 and 9) and, more superficially, by Walzer (1990a, 217f; 1992, 91f, 105ff) and Habermas (1992, 658f). Strong democratic citizenship, however, does not, unfortunately, exclude illegitimate external exclusion, even if it is completely disentangled from all ethnic or national criteria and identities. In this respect it is symptomatic that both modern states mentioned by Habermas (1992, 642f) to show the possibility of this disconnection, the United States and
Switzerland, have external policies marked by collective egotism and conditional inclusion or exclusion.\textsuperscript{42} To avoid this morally illegitimate exclusion and to defend stronger versions of democracy, one should differentiate conceptually and practically between different levels of citizenship and argue for a "legal" and "low threshold concept" of citizenship (Carens 1993) with regard to immigration, refugee, and naturalization law and policies. The indications for such a strategy in Carens and, particularly, in Habermas\textsuperscript{43} remain too vague in legal and practical terms. They should urgently be made more specific. In a very short outline of such a program, I propose to distinguish the following levels of discourse and related statuses of citizenship and duties:

<table>
<thead>
<tr>
<th>Discourse</th>
<th>Citizenship Status</th>
<th>Duties</th>
</tr>
</thead>
<tbody>
<tr>
<td>Moral</td>
<td>1. Passive status of person</td>
<td>moral duties</td>
</tr>
<tr>
<td></td>
<td>2. Negative status or status libertatis</td>
<td>legal duties</td>
</tr>
<tr>
<td></td>
<td>3. Positive status or status civilis (Staatsangehörigkeit)</td>
<td>status subjectionis</td>
</tr>
<tr>
<td>Legal</td>
<td>4. Active status or status activus civilis (aktive Staatsbürgerschaft)</td>
<td>legal duties</td>
</tr>
<tr>
<td>Political</td>
<td>5. Liberal, republican, or strong political citizenship</td>
<td>moral and political duties</td>
</tr>
<tr>
<td>Ethical</td>
<td>6. Ethnic, cultural, national concepts of citizenship</td>
<td>ethical duties</td>
</tr>
</tbody>
</table>

**Figure 1. Citizen-Status or Levels of Citizenship**

\textit{Ad 1.} The moral concept of an autonomous individual, a moral person with freedom to choose and responsibility for her actions, is the basis of any legal concept of a person as a bearer of rights, the precondition of the general concept of right and all specific subjective rights, private or public.\textsuperscript{44} Rights require the moral and legal recognition of individuals as persons; subjective public rights cannot be separated from natural persons (see Jellinek 1905, 83f; 1928, 418). The position of the individual with respect to the state is the basis of the legal concept of a "status," it is expressed in this very general and abstract concept of a \textit{status passivus}.

\textit{Ad 2.} The negative status, \textit{status libertatis} or "Menschenrechtsstatus" (Grawert), is a bridge between moral and legal concepts. Historically, it is the result of external and internal limitations of state sovereignty. The protection of a sphere of individuality by specific rights of privacy and due process is
guaranteed to all human beings entering the territory of a state; it is not limited to *Staatsangehörige*. Therefore, it is not called a *status civilis* but a human rights status. It applies, or better, should apply, equally to aliens, strangers, tourists, diplomats, legal or illegal residents (capitalists, business managers, migrant workers, etc.) as to inborn or naturalized citizens.

**Ad 3.** The positive status of citizenship, *status civitatis* or *Staatsangehörigkeit*, usually contains two things: legal protection and due process and “claims on the administrative activities of the state for individual interest” (Jellinek 1928, 420) or claims to public goods and services (like housing, education, health care, social security, and services), whether or not articulated constitutionally as “social rights.” Jellinek has conceptualized this positive status as a kind of compensation for all the sacrifices the state asks from its “subjects.” Together, these sacrifices form their *status subjectionis*: their legal duties to perform directly or indirectly for the state (obey, pay taxes, or perform public work) and/or to fulfill public services (military, social, judicial). Concerning our problem, I’d like to mention only two points. (i) Just like claims to legal protection (including rights of privacy and due process), claims to public social insurances and services increasingly no longer depend on state membership: “status positivus” is not any longer coextensive with “status civitatis.” As I stated already in section 1, legal state membership loses importance in this regard (see Grawert 1984, 184). All legal residents can legally claim protection and services (they pay taxes, social security, and old age contributions), and even illegal residents have better moral claims the longer they stay. (ii) If one accepts that sheer duration of stay, and with it growing social relations and expectations—irrespective of the character (legal or illegal) of the first entry into a state whatever its criterion or motivation—is a sound basis for enhanced moral and legal claims to citizenship, the crucial issue becomes increasingly the legitimacy and effectiveness of control of first entry (see Walzer 1983, 34f). Furthermore, if one accepts that all different statuses of long-term second- or third-class citizenship, “metics,” “denizens,” “Gastarbeiter” are morally indefensible, and that, accordingly, all state members and at least all long-term residents should have active and passive democratic political rights (see the excellent treatment in Walzer 1993, 53ff), this crucial role, for all restrictive policies, of first admission decisions and effective border control, becomes even more evident.

**Ad 4.** The *status activus* includes all active and passive political rights (universal, free, equal, secret, direct ballot, and right to get elected in office) and the freedoms of political communication. In most liberal-democratic constitutions, these rights are not connected to a corresponding legal duty to
vote, to candidate for office, or to make active use of the possibilities for political participation, legally guaranteed by the freedoms of political communication. In my view, one should distinguish sharply between a "thin" or low threshold concept of this legal status activus civilis and the different empirical practices and "thicker" normative conceptions of political citizenship (see Ad 5). Legal citizenship is no more, but also no less, than one of the prerequisites for active political participation: it is not meant to guarantee political participation and it cannot do so. It is a complex of moral, legal, and political rights. These rights are compatible with competing moral and political duties and conceptions of politics and democratic citizenship, but they do not and should not prescribe legal duties. Political rights and freedoms cannot guarantee shared civic and democratic commitment, a common culture, common virtues, and (moral and political) duties. This asymmetry between rights and duties is typical for modern law.46

One point needs to be stressed here. Of course, we expect immigrants and applicants for naturalization to obey the law and fulfill their legal duties entailed in the status subjectionis. And, of course, we may hope that, in addition, they morally accept and respect the law as we hope that "state members" do, although we may not have the means to enforce it. But we do not ask full "native citizens" to make active use of their rights to participate nor are we legally entitled to ask them. We do not and are not entitled to judge whether they are "competent citizens," as so many "liberal" defenders of privileges of wealth and education under the guise of democracy have done. Consequently, we are not entitled, either legally or morally, to ask from immigrants what we do not ask from "ourselves."

Ad 5. It is quite obvious that this low threshold concept of legal status activus does, and is meant to, allow for different empirical degrees of political participation. It is also obvious that a democratic political system cannot be reproduced or strengthened without at least some minimum of active political participation of some citizens. Empirically, one can judge the degree of actual democracy by studying how many people participate in public talk and decision/action how often, in how many spheres, and on how many levels.47 This degree will be quite low in capitalist, sexist, racist, and elitist societies. Normatively, the moral, ethical, and political duties to participate differ significantly in accordance with the competing concepts of democratic constitutions, politics, and citizenship. These can be grouped, following Barber, into three ideal types: "liberal," "unitary," and "strong democracy." A low threshold concept of legal status activus does allow for the corresponding and competing normative conceptions of political citizenship, which, for our purposes, can be summarized by reproducing Barber's table (1984, 219).48
### Table 1
**Forms of Citizenship**

<table>
<thead>
<tr>
<th>Citizens conceived by</th>
<th>Representative Democracy</th>
<th>Unitary Democracy</th>
<th>Strong Democracy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bound together by</td>
<td>legal persons</td>
<td>brothers</td>
<td>neighbors</td>
</tr>
<tr>
<td>contract</td>
<td></td>
<td>blood</td>
<td>common participatory activity</td>
</tr>
<tr>
<td>Related to government as</td>
<td>sovereign but also subject</td>
<td>corporate body</td>
<td>active participant</td>
</tr>
<tr>
<td>By ties that are</td>
<td>vertical (citizen to government)</td>
<td>horizontal (citizen to citizen)</td>
<td>dialectical (“levels” vanish)</td>
</tr>
<tr>
<td>Political style</td>
<td>distrustful, passive</td>
<td>self-abnegating, submissive</td>
<td>cooperative, active</td>
</tr>
<tr>
<td>Civic virtue</td>
<td>accountability (reciprocal control)</td>
<td>fraternity (reciprocal love and fear)</td>
<td>civility (reciprocal empathy and respect)</td>
</tr>
<tr>
<td>Status of citizenship (vis à vis other social identities)</td>
<td>discretionary (one among many)</td>
<td>omnicheminent (the only permissible one)</td>
<td>sovereign (the first among equals)</td>
</tr>
<tr>
<td>Ideal ground (actual ground is territory)</td>
<td>common contract (generic consensus)</td>
<td>common beliefs, values, ends, identity (substantive consensus)</td>
<td>common talk, decision, work (creative consensus)</td>
</tr>
</tbody>
</table>

**SOURCE:** From Benjamin Barber’s *Strong Democracy: Participatory Politics for a New Age.* (1984, Figure 3, p. 219). Reprinted by permission from the University of California Press.

I share most of Barber’s arguments against “thin” and “unitary” democracy and in favor of the institutions, cultures, virtues, and practices of stronger democracy. However, it seems necessary to stress two points, both signaling that most recent neorepublican theories have trouble avoiding “strong democracy” to fall back into “unitary democracy.” They thereby cross, in a thoughtless but systematic way, the line between legitimate moral, political duties and legal duties. (i) *Internally,* this line should function as a legal safeguard against both totalitarianism and the ethical monism of republican versions of a good life, which are incompatible with ethical pluralism in modern societies. It is true that some ingredients of stronger democratic culture, virtues, habits, and practices are required for the reproduction of “thin” democracy and that, therefore, complete state neutrality is wrong. The state and other public agents simply have to opt for and realize policies that socialize, educate, and train inborn and immigrant citizens in the neces-
sary habits, customs, and virtues of a “minimal public or political morality.” Without such, the reproduction of liberal-democratic institutions and public political culture would be seriously undermined, and with it the safeguards of precisely that ethical pluralism. Defending a minimal threshold concept of \textit{status activus} thus does not prevent one from defending and arguing for much “thicker” conceptions of political citizenship and of democratic education. It only prevents one from doing so in an illiberal way.

(ii) \textit{Externally}, thick republican conceptions of citizenship necessarily work and are meant to work in favor of highly restrictive immigration, asylum, and naturalization policies whenever the line is crossed that separates the ethical, moral, and political duties, and democratic virtues that are praised in all citizens from legal duties and criteria of entry.\textsuperscript{51}

\textit{Ad 6}. In most (neo)republican theories, strong-democratic political conceptions of citizenship are intimately tied up with ethico-political arguments for ethnic, cultural, or national conceptions of citizenship and the corresponding ethical duties and virtues. Most “civil” religions are in fact ethnicist, denominationalist, culturalistic, or nationalist. This, again, demonstrates how difficult it is to distinguish between different versions of democratic political culture and virtues that are, in principle, universalist and particularist ethical conceptions.\textsuperscript{52}

Unfortunately, here I can only state that these conceptual distinctions open up a promising and new strategy in normative theorizing, allowing one to combine the advantages of minimal, neutral, or so-called liberal conceptions of politics and citizenship (using their critical power against illegitimate exclusion) with those of conceptions and theories of stronger democratic politics and citizenship, necessary for the continuity and reproduction of “liberal” democracy.

Such an argument is confronted by two serious theoretical and practical problems: How is it possible to distinguish the hard core of universalist liberal and democratic political culture from particularist ethnic-cultural forms in which it is inevitably embedded? How is one to overcome the “impotence of the ethical,” the weak motivational force of universalist moral talk and minimal threshold concepts of politics and citizenship? These are the hard questions “communitarian” criticism poses to universalist “liberal” defenders of human rights, democracy, and the rule of law.

\textbf{4.3 What Is the Hard Core of Liberal Democratic Culture?}

Even analytically and theoretically, the proposed distinction between a liberal, democratic public or political culture and “ethical-cultural forms of
life” is not without problems. A complex normative theory of democracy should distinguish and discuss the interrelations between the following levels: democratic principles, institutions, cultures-habits-virtues, and democratic judgment and action (see Bader 1990). Now it is an old republican wisdom that democratic principles and institutions cannot be maintained or strengthened without democratic culture and that there exists a “dialectic” between culture and habits as well as between virtues and judgment. Is it possible to spell out the hard, universalist core of this “civic” culture, which, historically, can only be found embedded in rivaling and changing particularist forms of ethnic, religious, national cultures? Or, to state the problem more generally and systematically: (how) can one identify the hard core of liberal and democratic principles, institutions, cultures, habits, virtues, and practices if one recognizes (i) that they all are developed in particularist, historically, and socially situated cultures; (ii) that they themselves have changed historically and continue to do so; and (iii) that their articulation and interpretation is always contested. I must confine myself to three remarks using democracy as an example.

1. **Democratic principles** (autonomy, political liberty and equality, participation) do not fall from heaven, nor are they inscribed in nature or language. They are articulated in specific (e.g., western, modern, capitalist, racist, sexist) societies, periods, and political units. Their articulation has changed considerably during the last three centuries (e.g., through the struggles for a truly universal understanding and codification of the right to vote). Their interpretation has always been, and still is, contested: a short look in books in political philosophy makes this evident. There is not even consensus on what the basic principles are, whether there is one or many. If many, how many? How do they relate to each other? This means, however, at best that they should not be identified with specific interpretations and recent codifications. The process of their understanding and articulation is open-ended, but such that it shows a clear direction toward universalist inclusion. It means, second, that they can always be challenged. A fundamental disagreement even on principles is possible and is protected by something like a metanorm of “consensus to dissent,” “agreement to disagree.” Third, it means that the process of their changing articulations cannot be steered completely by propositionally articulated principles. It assumes something like a metalegal, metaconstitutional basic commitment or democratic habit beyond constructivist rationalism. This must be embedded in the evolution of culture and cannot be controlled by Reason with a capital R. Finally, for all this historical, social, cultural, or hermeneutic boundedness, there still is no cause for historicism or social and cultural relativism. Many communitarian and hermeneutic philosophers or cultural anthropologists think it is the final blow to
any kind of universalist argument. It isn’t. It is only the starting point of all
interesting discussions. We are able to translate, to learn, to compare, and to
detect direction in these changes, to engage in “reiterative” or “relational”
universalist projects.55

2. It is quite easy to show that our interpretations of principles are
informed, sometimes even determined by our institutions, our cultures, and
our practices. And this is the basic argument against discourses in normative
theory that restrict themselves to this level of principles (see Unger 1983,
99-102). The critical distance toward particular institutions won by analytical
and comparative abstraction also works in the other direction. It opens ways
to think about alternative institutional translations of democratic principles
and allows for a thoroughgoing critique of the common “deduction” of a
present constitutional design (e.g., representative political party-democracy)
in a particular historical tradition. Democratic principles allow for different
institutional designs (e.g., direct vs. representative) in different contexts.56

3. The more specific and more context-dependent the level, the more
difficult is the process of abstraction in search for the common core of liberal
democracy. Yet it should be possible to spell out what liberal democratic
culture, habits, and virtues, apart from all particularist variations, minimally
mean. What do we refer to when we speak of a liberal and democratic public
or political culture? What are democratic cultures, what are republican virtues
of citizenship apart from their French, American, Genevan coinage? These
again are hard questions.57 I confine myself to two very general remarks.

(i) Even if one stresses that radical democracy is an open-ended project,
directed mainly toward present and future public talk and action rather than
toward some imagined or real past, it still must be rooted in some common
democratic and liberal practices of the past to form a tradition at all, to show
relatively stable habits, to develop recognizable virtues. Cultures, habits, and
virtues need time to grow and develop (see Bader 1991a, 98ff). Democracy
and toleration must be learned and practiced through longer periods of time
to strike roots in the character of persons, their judgments, and actions. Even
Habermas—who otherwise seriously underestimates, both empirically and
theoretically, “tradition” in modernity—puts his trust in and builds upon a
populace (Bevölkerung) habituated to political freedom, accustomed to the
We- perspective of the practice of self-determination (1992, 642). Here we
are confronted, theoretically and practically, with another hard paradox.
Universalist principles and institutions of democracy ask for democratic
cultures, habits, and virtues that cannot be thought without their own history
and tradition; yet, at the same time, this reference to particular histories can
be used, and is used, as a criterion of exclusion. This paradox may well be
the best and most legitimate argument, from a democratic point of view, in a
defense of politics of fairly closed borders. It lies at the heart of the tension between democracy and justice, even in theories that try to interpret democracy in terms as universalist as possible. Of course no easy solution may be expected, but all democrats should think very hard to show practical ways out of this dilemma.58

(ii) Everything depends, therefore, on a specification of those traditions: which traditions? They must, of course, be liberal and democratic to a considerable degree. Even if it turned out to be quite difficult, it is not impossible to disentangle democratic political culture and citizenship from too narrow links with particular ethnic, national histories. The familiar distinction between praiseworthy patriotism and nasty nationalism tries to articulate a soft version of this disentanglement.59

4.4 “Weakness of Morality”?

The defense of low threshold concepts of citizenship and of the disconnection of democratic political citizenship from all ascriptive traditions, loyalties, allegiances, commitments, collective identities, and particularly from national cultures, is confronted with at least four serious problems.

1. Is it possible to have strong commitments based on universalist principles? Benjamin Barber and many others have convincingly demonstrated that the reproduction of “thin” democracy itself requires at least some stronger democratic political commitments.60 Is it possible empirically to develop these stronger commitments in a universalist manner without the familiar connotations of nationalism, chauvinism, jingoism; to have a “constitutional patriotism” without all traditional connotations of “patria”? How far can liberal-democratic concepts of constitution, legal and political citizenship, political community and identity, without a considerable loss in motivating force, be torn away, abstracted, disentangled, cleaned from—real or imagined—common descent, heredity, history, religion, ethnicity, and nationhood, and be based only on language? Is it even possible to do without one dominant common language? Can we not only imagine but realize a political “community” without a particularist history and culture?61 Is it possible to break fundamentally with the superposition of culture-nation-state-citizenship? Historically, all known forms of “liberal-democratic” or “republican universalism” up till now are badly disguised versions of chauvinism. There is still a long way to go in the historical process of universalization, now under way for more than three centuries, but which might ultimately lead—in a future hopefully not too distant—from universalist declarations and claims to universalist practices. If this were to be possible, as I believe it is, would such
a political identity have enough practical, motivating force to combat and overcome the “strong” identifications along ethnic, cultural, nationalist, statist lines? Or to be more precise: would it be strong enough to tackle all premodern versions of conservative communitarianism, as well as the reactionary appeal to ethnic, racist, nationalist “communities,” so successful today in ex-Yugoslavia, in the former Soviet Union, but also in many “respectable” states in Western Europe? And would it be strong enough to cope with the neorepublican and “democratic-communitarian” appeal for fairly closed borders?

2. How may one deal with the “impotence of morality” in normative theory? In terms of recent normative theory, this problem is probably the most problematic consequence of the analytical separation from morality and Sittlichkeit. Habermas, again, clearly recognizes this problem. The motivational deficit of procedural, communicative reason is a result of the fact that this reason can only present the “weak force of rational motivation.” “Anyway, it cannot guarantee the transmission of insights in motivated action” (1992, 19). This is the core problem that Habermas shares with Kant’s autonomous moral will (see Habermas 1992, 145, 202), with Rawls’s theory of justice, which looks for “the motivational thrust of a convivial (entgegenkommend) political culture” (86), and with Dworkin’s attempt to embed principles of law into a liberal ethics (p. 87).

The action-relevance of such a morality that has been absorbed back into the cultural system remains latent as long as it is not actualized by motivated actors themselves. They must be in a disposition to act conscientiously. Rational Morality thus depends upon convivial socializing processes. These should produce corresponding instances of conscientiality, that is to say corresponding formations of the superego. Although the motivating forces of the good reasons of such a morality are weak it becomes stronger only to the degree that moral principles are internalized and anchored in the personality system. (Habermas 1992, 145f)

This skepticism with regard to the motivational force of universal, “moral-point-of-view” arguments was one of the main reasons for the strong particularist bias in Walzer’s Spheres. Interestingly enough, Walzer himself is immediately confronted with the same problem as soon as he tries to tackle the nasty internal and external consequences of “the nation,” which ask for a domestication by civil society. He feels somewhat uneasy with the civil society argument:

It cannot be said that nothing is lost when we give up the singlemindedness of democratic citizenship or socialist cooperation or individual autonomy or national identity. There was a kind of heroism in those projects—a concentration of energy, a clear sense of
direction, an unblinking recognition of friends and enemies. To make one of them one's own was a serious commitment. (1992, 105)

And this threatening loss of commitment is particularly serious in comparison with the very strong nationalist/ethnic/racist identifications. Both positions, universalist democratic discourse theory and civic pluralism in "national popular discourse," as Brian Barry called it, have to tackle the same problem. They do so starting from different angles, but, as far as I can see, they do not differ much in topics and policies.

3. How to develop loyalty to universalist democracy practically? The task is threefold: (i) to socialize people in a way that they "identify" with civility and liberal-democratic principles, constitutions, and culture; (ii) to educate them effectively in a democratic manner; 62 (iii) to create institutional opportunities for practicing toleration and democracy in all spheres of life, not only in "politics." 63 All "liberal" democrats can only hope that this is not only possible, but effectively done, and we should, as political theorists, not be content with reiterating that it should be done but work out more detailed institutional and practical proposals.

4. Which public should one talk to? The preferred discourses differ: universalist moral-political discourse versus "national-popular discourse." But again, in the end, the difference is not as great as one might expect: (i) One must write for or speak to a public. But there are numerous publics and arenas of publicity. Most write for an (international) academic public as well as for a broader (mostly national) public of citizens. Walzer does it in a style and rhetoric that only slightly differs from one group to the other. Habermas's style and rhetoric in his academic texts is very different from those in his broader public interventions. He, rightly, thinks that there is a necessary division of discourses and work and that theoretical and political projects both are cooperative endeavors. Walzer seems to be reluctant in this regard, showing at least some remnants of the integrated theoretical and political "one man show," so characteristic of the forerunners he admires, the Hebraic prophets. (ii) Both must keep in touch with specific publics; interestingly, the public of Walzer's national-popular discourse is increasingly an international one, although unfortunately still mostly academic. If I understand his articles from 1989 on correctly, the "nation" becomes a progressively more problematic public. If there still does not exist a global public of citizens, this does not mean that one should not contribute to creating one (as Chomsky and others wish to do). (iii) What to tell the public? One should avoid not only the danger of speaking to a global public that does not yet exist or cannot understand but also the danger of telling the local public what it wants to hear. In most questions, Walzer—again like his beloved prophets—clearly count-
ers this danger. With regard to citizenship as exclusion, his talk unfortunately is more dubious. Nevertheless, I believe that both hope that something like an international civil society is actually developing, with global or at least interstate arenas, publics, social movements, nongovernmental organizations (NGOs), and a variety of official international organizations.

4.5 Radical Democratic Communitarians and Neorepublicans As New Conservatives?

Political theorists of radical, universalist democracy—I see myself as one of them—have considerable trouble finding convincing theoretical and practical answers to the problems that I dealt with in the preceding two paragraphs. Democratic communitarians and neorepublicans do have really hard times in combining justice and democracy without morally illegitimate exclusionary consequences. All “good” reasons for stronger versions of democracy, particularly all reasons for solving in a radical democratic way the two most paramount problems of the twenty-first century, namely, the ecological problem and the problem of international inequalities and migration, can be transformed into just as many “bad” reasons for exclusion. This will happen if it proves to be impossible to elaborate concepts and practices of stronger democracy in such a way as to prevent or at least severely hinder their use as exclusionary devices. Otherwise, both theories would just add another branch to the fast-growing tree of exclusionary ideology: besides the all too familiar racist and neonationalist ideologies, one is increasingly confronted with new liberal, communitarian, and neorepublican versions of “cultural fundamentalism.”64 Radical and progressive democrats would turn out to be transformed into defenders of morally illegitimate privileges in a similar way as liberal defenders of privileges of wealth and education in the nineteenth century argued and acted as conservatives against the trend toward internally universalist inclusion.

Notes

1. See Bader and Benschop (1989, chap. 8, 4.4), for the cross-cutting and analogous development of “absolute private property.” Pogge’s (1992) treatment is much too vague, analytically as well as historically. See the classical historical studies of v. Gierke, Kern, Hintze, Max Weber, Elias, Tilly, and many others. See the short and excellent treatment in Ruggie (1993).

2. The increasing factual limitation is a consequence of growing international interdependencies in economic (capitalist world economy, International Monetary Fund [IMF], Worldbank,
etc.), political (alliances, etc.), ecological, and cultural perspective. The increasing moral limitation is due to the impact of human rights discourses, international social movements, and nongovernmental organizations (NGOs; like Amnesty International). See for the latter aspect: Habermas (1992, 659f) and Walzer (1992a, 1993, 53).

3. See Walzer (1983) ("metics"), Heather (1990), Brubaker (1992), Tassin (1992), Meehan (1993), Muus (1993) for excellent treatments of second-class citizenship. See v. Dijk (1992) for an excellent treatment of the so-called Schengenparadox: free movement within the EU. On the other hand, states are required to lead policies to make "people stay where they are" and to radically close the European Fortress externally.

4. See the relation of "Citizenship of the Union" and Danish citizenship in the Danish Declaration in Edinborough December 11-12, 1992 (quoted in Lange 1993).


6. It is a clear symptom that the exclusionary effects of citizenship are completely lacking in two recent readers: Gemeinschaft und Gerechtigkeit (Brumlik and Brunkhorst, eds., 1993; exception: Wellmer) and Auf der Suche nach der gerechten Gesellschaft (Frankenberg 1993) in which many different "third" positions are gathered between "liberalism" and "communitarianism." In Kymlicka and Norman (1994) they are, explicitly but not surprisingly, excluded. In this article, I exclude so-called differentialist or postmodern attempts to deal with the problem because they have still not overcome their fundamental strangeness to ethics and political philosophy, particularly their really terrible lack of institutional concreteness (see the more interesting versions of Connolly 1991; Young 1990; Benhabib 1993; in some respect also Brunkhorst 1994).

7. Only very recently one finds a growing amount of studies on these topics (Singer 1972; Barry 1973, chap. 12; 1989, chap. 12 and 16; Beitz 1979; Beitz, Cohen, Scanlon, and Simmons 1985; Dowty 1987; Shue 1988; Veldhuis 1990; Shklar 1991; Barry and Goodin 1992). My own sketch (for a more extended version, see Bader 1993b) is very much informed by the writings of Joe Carens and Goodin.


9. See Carens (1992) and Dummett (1992) along those lines. Both strategies encounter serious internal consistency problems and external criticism (see the commentaries by Woodward [1992] and Finnis and the illuminating comparison of alternative perspectives by Terry Nardin [1992]). Without being able to show this here, arguments from justice seem more promising to me. Frank Cunningham has rightly criticized my essay for not giving reasons in this respect.


11. This is as serious an omission in the sketch of my argument as the fact that I have to leave out the question of how and by whom justice will be democratically implemented (both Michael Walzer and Frank Cunningham did remind me in their comments of the seriousness of this omission).

12. See Goodin (1992, 8f) for the logic of this indirect moral argument.

13. See Raz (1975), Habermas (1991, 1992). A note on terminology seems urgent here: the distinction between "morality" and "ethics" follows Habermas's terminology. "Ethics" refers to Sittlichkeit and could perhaps better be translated with "ethos." The Hegelian distinction between "Moral" (Kant) and "Sittlichkeit" (Aristotle) shows analogies but is not identical with the distinction between the "right" and the "good" in the Rawlsian tradition.
14. Realist arguments, if applied against open border policies, strengthen the urgency of international redistribution. If applied against both options (as usual), they are outright conservative in their consequences.

15. “Only the world is a self-contained distributive world” (Walzer 1983, 28), “the only plausible alternative is humanity itself. . . . entire globe” (p. 29): a Rawlsian “ideal contractualism” or Habermas’s “undistorted communication” may be the only viable options. See Brumlik and Brunkhorst (1993, 13).


17. And that is even true for Kymlicka (1989b, 178, 199, 201f).


19. See Bader and Benschop (1989, 234). Unfortunately, “common history—Established/Outsiders—historic ideologies” are not analytically isolated and separately dealt with. They should therefore be added (after territorial characteristics).


21. See Walzer (1983, 28f, 52) (“national club is different from the state”). See a bit clearer in his “Comment” (Walzer 1992c) on Taylor, where he distinguishes “liberal nation states” like Norway, France, and the Netherlands from “immigrant societies like the United States” (p. 101). But even this distinction does, unwillingly, reproduce the ideology of the ethnically and culturally homogeneous “nation states” (ask the Bretons, the Occitans, the Fries). A really homogeneous “nation-state” is a theoretical fiction, not a historical reality, even after so many centuries of unifying and disciplinary state policies. Empirically, the real interesting questions concern, as always, the different degrees of homogeneity or heterogeneity. See for a critique of this “ideal fit of states in cultural traditions”: Kymlicka (1989b); v.d. Berg (1993) “B Presumption of Nation-States.”

22. See Walzer (1983, 42) “Perhaps the border of the political community [sic] was drawn years ago so as to leave their villages and towns on the wrong side”; states “are also the political expression of a common life and (most often) of a national ‘family’”; (63) “If the community [sic] is so radically divided that a single citizenship is impossible, then its territory must be divided, too.” If Walzer would take this crypto-normativist maxim seriously, it would mean that most recent states should radically be broken up into smaller “quasi-homogeneous” communities: see below (vs. global state and state-less world). If “the sharing takes place in smaller units” (p. 29), why not adjust the “political units”? That the “adjustment must itself be worked out politically” and that one has to “appeal to common meanings” is not only no argument in favor of the state as the appropriate unit, but it outright contradicts it.


25. See Bourdieu (1979). But from the very general argument of some necessary relation between “identity,” “group,” “boundaries,” and “closure,” no specific argument in favor of the “state” can be drawn. Normatively speaking, it may be legitimate for co-owners of apartment houses and for worker cooperatives to apply strongly selective admission policies (both examples from Walzer’s reply to my critique in Amsterdam, October 1993) because the excluded can find
their way somewhere else, but even this example shows the limits: morally illegitimate criteria of exclusion on one hand, exclusion without alternatives on the other. The analogy with the state is frivolous for two reasons: (i) so long as state membership is such an important asset in many respects (including housing, work, etc.), it should not be simply compared to membership in “neighborhoods and clubs”; (ii) if all states apply the same exclusionary policy (see Carens’s critique of the legitimacy of the state system and the asymmetry of “exit” and “entry”; see Brubaker 1992).

26. See Kymlicka (1990, chap. 9) for consequences in the normative debate about pluralism and state neutrality. See also Carens (1990); see analytically: Bader and Benschop (1989, IV, § 4.6.3 “Selective association” vs. § 4.6.4 “Patronage.”

27. See E. Weber, Elias, Foucault, E. P. Thompson, Anthony Smith, B. Anderson, Brubaker, Hobsbawm, and many others.

28. See Kymlicka (1989b) for native Indians in Canada and the United States.

29. See Ruggie (1993, 174); Pogge (1992) for a critique of this “ideal fit of institutions within territorial states.” This “presumption of State of Spheres” (Berg 1993) and the corresponding statement of state sovereignty is much qualified in later writings of Walzer (see 1993, 54). Pogge (1992, 61ff) discusses four main reasons for a vertical dispersal of sovereignty in his “multilayered scheme”: peace/security, reducing oppression, global economic justice, and ecology.

30. This “voluntarist rhetoric of exclusion” is quite common language in right-wing parties (see for France: Brubaker 1992, 157).


34. See Barber (1984) (very little on parochialism, nothing on exclusion); Greschner (1989, 140); (Hirst 1994) is much more aware of the problem. In his later writings, Walzer more clearly distinguishes between “nasty” and “noble nationalism” (1989, 1990) and tries to discuss nations in different historical contexts of dominance (1992a, 164, 166, 169f): historical forms of nationalism and the consequences for the “many conceivable arrangements between dominance and detribalization and dominance and separation”; see also his defense of moral relativism as a standard for dealing with “tribal zealots.” Of course there is some hope that internal democratic organization at least helps to temper external oppression, exploitation, and exclusion (see Cunningham 1991, 317, who is more friendly to the communitarian position than I) for a restatement of Friedrich Engels’s hope in this respect, which has a hard time with Athenian, Venetian, Dutch, American imperialism, and Swiss xenophobia. See also Macedo’s (1991, 279) questionable statement that “no two liberal regimes have ever gone to war with one another.” Unfortunately, there is, in my mind, more reason for skepticism.

35. See Habermas (1992, 333-48): Discourse theory “breaks with an ethical conception of civic autonomy,” which “draws its legitimating power from the convergence of familiar ethical convictions,” and presupposes an ascriptive membership in an intersubjective life-form and coherence of tradition, a “common life,” a “common past,” and a substantial concept of a people (Volkswort), which apprehends the constitution as a “civic” or “national religion,” which “understands Staatsbürgerchaft or citizenship not legally but ethically, and which favors (austrägt) a dominant ethical meaning in politics and political discourse.” Accordingly this does not make sharp enough the “actual difference between politics and ethics” (p. 346).
36. See Habermas (1992, 637) "Conceptually, citizenship and national identity were always already independent." Historically, to the contrary, ethnic and civic aspects have always been combined, in one way or the other, in nations (see Smith 1989, 348f).

37. See much more critically: Brubaker (1992). See for some consequences of the republican French tradition of "citoyenneté," which—officially—does not pay any respect to ascriptive criteria, for immigration and naturalization policies and traditions (political integration) in comparison with the British "race"-based model of multiculturalism and "incorporation": Verena Stolcke (1993).

38. "I do not want to suggest too strong a link between nation and community. Communities can take other forms... Reiterative universalism offers a way of understanding and justifying those boundaries. There is no sure way, given the circumstances of national life, to get them right. Nor is it any part of my argument that these boundaries should always be state boundaries" (Walzer 1990a, 554f).

39. With respect to language, Habermas's treatment remains inconsistent: sometimes he seems to accept linguistic bonds as essential: "In the last analysis, what brings together legal associates in a lawful community is the tie of language, of people communicating together" (1992, 372, interestingly enough with reference to Walzer's "Four Mobilities" [1990, 13f]). Whereas at other places, common language is treated as an ascriptive criterion (see Habermas 1992, 636, 642), which is more in line with the reality of bi- or multilingual states like Canada, Switzerland, and, more recently, South Africa. Carens is defending the claim that in Quebec, in a context of power asymmetries, language is a legitimate criterion in immigration policies (1993, 10), but he carefully criticizes "thick" theories of language acquisition (33f) to prevent further-going claims of cultural adaptation to which Charles Taylor has drawn much attention. V. Gunsteren (1988) unproblematically accepts history as a relevant criterion, whereas Choenni, following Bauböck, signalizes illegitimate exclusionary effects (1992, 67, 71, 74) of conceptions of citizenship starting from "predefined political community and assumes that citizenship is the cement of its cohesion." See below (section 4.3) for a more systematic statement of this problem.

40. If one understands democracy politically, not "ethically," and if one shifts the balance in the democratic principle from the still, in some way, particularist Rechtsform toward Moralprinzip, the result is a universalist conception of democratic citizenship that leaves completely open the question of political levels or units. "However, this unmistakable identity [i.e., an association bound together by law with specific forms of life and traditions - V.B.] does not identify it as a political community of citizens. On the contrary, general principles of justice hold sway over the democratic process, principles which are equally constitutive for each polity (Burgerschaft)" (Habermas 1992, 372). In Habermas's version of the democratic principle, the universalist principle of morality is stronger than the lawful form (Rechtsform) of the particular lawful community with which it is combined. State citizenship and world citizenship form a continuum, which can already be recognized in its outlines (das sich immerhin schon im Umris sen abzeichnet). Democratic citizenship (in the universal sense of Bürgerschaft not Staatsburger) showing a tendency toward a global citizenship status, becomes historically disconnected from state membership and linked with membership in the "republic of republics" in the Kantian or Habermasian version: der Republik der Weltbürger. The political discourse, consequently, is supposed to show a significant shift from "ethical-political" toward "moral-political discourse."

41. Carens (1993, 37ff) for Quebec.


43. Following an old legal distinction between different "statusus" of citizenship, Habermas (1992, 638ff) distinguishes between "Staatsangehörigkeit" and "Staatsbürgerschaft," or, tradi-
tionally, between *status positivus civilis* and *status activus*. Unfortunately, the consequences of this distinction for our problem are not elaborated in detail. Habermas is content with two remarks: (i) the conventional ascriptive indices of residence and birth (*ius soli* and *ius sanguinis*) establish no irrevocable submission to the sovereign power, they are much more only "administrative criteria for the attribution" of civil status. But he correctly indicates that "the decoupling of the normative meaning of civil status from the ascriptive indices of descent has certainly not been completely carried out." Normatively, he argues for a very "liberal" and permissive immigration policy without any further specification (635f). (ii) He distinguishes between legal political rights, which are included in the *status activus* on the one hand, and more extensive "republican" political or moral duties of a "civic praxis, to which no one can be compelled by legal norms." "A legally enforced obligation to observe democratic rights has something of the totalitarian. . . . For good reasons, modern obligatory right (Zwangrecht) is not concerned with motives and disposition." Republican practices and virtues depend "properly on uncompelled motives and opinions of a citizenry oriented to the common good" (Habermas 1992, 641). Again, the consequences for our problem remain very much implicit and would roughly mean that republican democratic culture, virtues, and practices cannot be used in any way as criteria of exclusion, because they cannot even legally be asked from state members. In my sketch, I elaborate the multilayered concept of citizenship statuses of Georg Jellinek (1905, 1928) without stating that these different statuses should be integrated in some harmonic, holistic concept of citizenship. I hope that it is unnecessary to mention that I do not follow Jellinek's more than dubious theory of democracy (see de Lange 1993).

44. Still excellent: Jellinek (1905, 83f) See, for one of the many recent versions of the same argument, Dworkin (1977).

45. See Brubaker (1992) for the importance in republican political discourse on citizenship law and naturalization in France.

46. From Kant onward: *foro interno* versus *foro externo*; see Walzer (1990a, 216); *status activus* and "what lies beyond."

47. See Cunningham (1987) for those criteria and the crucial question of degrees. Empirically, there can be found huge differences between democratic political systems (see v. Beyme and many others). Normatively, the scale runs from defenders of restrictive elite versions of representative political democracy (from Schumpeter to Huntington) to extensive versions of participatory social and political democracy.

48. For similar, but much less developed treatments, see Habermas (1992, 640-3); Walzer (1983, 306-11, 1989, and particularly 1992: comparison of the model of the good life in republican democracy [§ II], in the marketplace [§ IV], and in "civil society" [§ VI]).

49. See Bader (1992). See Kymlicka and Norman (1994, 357ff). Unfortunately, Barber (1984) himself, in his regrettable and unnecessary antiliberal rhetoric, usually equalizes "liberal theories" with "liberal constitutions, politics, and practices"; low threshold legal citizenship and "representative democracy" with "thin democracy." This does not help to clarify the relation between legal *status activus* and strong political citizenship or that between "representative" and "strong democracy." In Figure 3 of Barber (p. 219), it would, therefore, be much better and more in line with the spirit of his arguments to deal with "thin democracy" instead of "representative democracy" (in strong democracy: citizens are also "legal persons," etc.).

50. See (Raz 1986; Gutman 1987; Kymlicka 1990, 205-7, 216-25, throughout). The minimal nonneutrality of liberal-democratic states can be, and is commonly, overstressed. In their criticism of "The Left," "Civic republicanism," and "Civil society theorists," Kymlicka and Norman distinguish between "citizenship as legal status" and "citizenship as desirable activity" (1994, 353), a distinction that is very close to what I have proposed. They point to urgent dilemmas confronting liberal theories of virtues.
51. This is evidently the case in v. Gunsterens discussion of "admission requirements" (1988, 736-8). See, for similar arguments, Oldfield (1990, 147). See as a kind of post mortem warning the perverse version of "communitarianism" in constitutional theory and practice of "real existing socialism" (see the short review in Grawert 1984, 195f).

52. A symptomatic indication of this difficulty can be found in Carens's ambivalent attitude toward stronger conceptions of culture and virtues: in his texts on distributive justice and problems of incentives he, rightly, insists on their relevance (1981, 1987); in his texts on immigration, refugees and naturalization, he avoids it for fear of exclusionary consequences. Now, I think this fear is empirically well founded but conceptually unnecessary. And it forms a bottleneck in normative theory. One can and should defend a minimal threshold concept of citizenship, but doing this does not prevent one from arguing for much thicker versions of politics and political citizenship. The importance of a clear distinction of "thick" political conceptions from thick "ethnic" conceptions of citizenship is demonstrated excellently by Brubaker (see 1992, 178ff for Germany).

53. See Bourdieu (1979); Bader (1991a, chaps. on Habitus and Kollektive Identität); Barber (1984). This, in part, is recognized by Habermas: "Legally guaranteed conditions of recognition do not however reproduce themselves automatically. They need the cooperative effort of a civic practice, something to which no one can be compelled by legal requirements. Thus the legally constituted civic depends upon a convivial, consonant background of motives and opinions of a citizenry receptive to the common good which cannot be legally ordained" (1992, 641). Compare, "The context of a political culture of freedom" (p. 642). See Wellmer (1993, 183ff), Brunkhorst, and others.

54. This insight is not a privilege of "communitarians." See, for different versions, Dewey (see Joas 1993); Rawls's "overlapping consensus" (1993, 133ff); Habermas's evolutionary arguments. See Carens (1993), the "only just political order, at least under modern conditions" (p. 24), the "political culture of a liberal democratic society" itself implies "a specific culture, ethos, history, and way of life" (39f). Living in "modern" societies includes a minimal prize: societal differentiation, one or other version of private-public distinction, secularized "public" spheres that are incompatible and incomensurable with all versions of religious fundamentalism; the commitment to pluralism is not without limits of toleration of cultural differences (see 26f on violence and on exit options for dissenters).

55. See Walzer (1990a). Re-iterative universalism "does not require an external standpoint or a universal perspective" (527); the "universal values" of moral minimalism "all have particularist implications"; "thin morality" is always and necessarily embedded in "thick morality" (see lecture Amsterdam, October 26, 1993).

56. All this is excellently elaborated by Roberto Unger (1983, 1987 II; see also Bader 1991b). See the same idea in Habermas (1992, chap. 9), but with the usual lack of institutional concreteness.

57. See the excellent treatment of liberal theories of virtue, which have been neglected for so long, in Macedo (1991) and Galston (1991); see also Cunningham (1987, 144-50).

58. See Bader (1991a, 421f) for individual and collective problems of reconciliation of individuality, contingency, mortality, and history with universalist reason under conditions of modernity.

59. See Riedel (for an excellent interpretation of Kant). Huizinga, Putte. Habermas is not content with this proposal. It is for Habermas a historical fact "that a political culture in which the basic constitutional principles can put down roots may in no ways rest on a common ethnic, linguistic and cultural descent of all citizens" (Habermas 1992, 642). My personal aversion against the use of "nation-states" may, in this respect, be very much influenced by the historically understandable negative attitude of most democratic and leftist German intellectuals with regard
to (mainstream) German history, "community," and tradition of this "verspätete Nation." But I doubt that this would make much difference for the core of my theoretical argument. Joas highlights correctly the completely different context and history of "community" discussions in the United States, but even he completely neglects, in his critique of the "generalized suspicion against parochialism, regional and national identities" (1993, 60), all exclusionary effects.

60. Carens, to my mind, is too careful in this regard: democratic communities cannot do without more than "some" commitment to civil rights, rule of law, democratic rights (see 1993, 24f, note 27: "How many" citizens have to be committed "how much" to secure the reproduction of democratic culture and therewith of democratic institutions and principles? Probably too "weak," liberal state neutrality may not be enough.

61. These questions can easily be misunderstood as if I would perpetuate three well-known shortcomings of most versions of liberal theory: (1) usually, the "benign" versions of state-neutrality with regard to ethnicity are only thinly disguised versions of "chauvinist universalism" in which the ethnicity of the predominant group/nation is ignored and, thereby, presented as neutral and universal. (2) No complete "ethnic" neutrality of states is possible if one takes into account that all states have one (or more) official languages, specific borders, and distributions of powers between federal, regional, and local levels; that all states have to distribute scarce resources among competing nations, ethnic groups, and so on. (3) The normative ideal of ethnic neutrality itself has to be reformulated: "relational" ethnic neutrality (in analogy to the reformulation of "objectivity" in philosophy of science, cf. Bader 1988); the institutional translation would certainly include the recognition of specific group-rights, proportional representation, and so on (cf. Kymlicka 1994). I do not want to continue the symptomatic "black-box" of most liberal theories that ignore the space between "individual" and state completely or do recognize only voluntary associations not allowing institutional, organizational, and juridical space for ethnic and other collective communities apart from the so-called "political community."

62. See already Karl Mannheim before the second World War; see Amy Gutman (1987).

63. Habermas's theory leaves room for more detailed proposals in all three respects, but its most disappointing aspect is that he does not make any step in elaborating what that would mean (see Bader 1993a; also Unger 1987; Hirst 1994). Walzer's Spheres (1983) nearly neglects the problem of how to tame the ugly external consequences, but is, obviously, much richer in institutional detail.


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Bader / CITIZENSHIP AND EXCLUSION 243


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