

THE RISE OF POPULIST NATIONALISM

*Social Resentments and Capturing
the Constitution in Hungary*

Edited by

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and

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Table of Contents

MARGIT FEISCHMIDT and BALÁZS MAJTÉNYI	
Introduction	1
KRISZTA KOVÁCS	
Constitutional Continuity Disrupted	11
ZSOLT KÖRTVÉLYESI	
Continuity, Discontinuity and Constitution-Making: A Comparative Account	43
NÓRA CHRONOWSKI	
A Nation Torn Apart by its Constitution? Nationality and Ethnicity in the Context of the Hungarian Fundamental Law	77
CHRIS MOREH	
Towards an Illiberal Extraterritorial Political Community? Hungary's 'Simplified Naturalization' and its Ramifications	105
BALÁZS MAJTÉNYI, GYÖRGY MAJTÉNYI	
Shift in the Hungarian Roma Policy after 2010	143

MARGIT FEISCHMIDT	
New Forms of Nationalism in and the Discursive Construction of the Gypsy Other	179
VIRÁG MOLNÁR	
Civil Society and the Right-wing Radicalization of the Public Sphere in Hungary	209
DÁNIEL OROSS, DÁNIEL RÓNA and ANDREA SZABÓ	
Who Brings the Political Change? Divergent Understandings of Politics Among Politically Active Students	247
ESZTER BARTHA, ANDRÁS TÓTH	
What Lies Beneath the Appeal of the Radical Right to Elite Skilled Workers? The Impact of Deeply Ingrained Nationalism and Perceptions of Multiple Exploitations	277
List of Contributors	299
Index	301

Towards an Illiberal Extraterritorial Political Community?

Hungary's 'Simplified Naturalization' and Its Ramifications

CHRIS MOREH

Introduction

Hungary has had a long—and often compromised—history of dealing with the descendants of those citizens of the former Kingdom of Hungary who remained on lands annexed to neighboring countries after World War I. Following the Treaty of Trianon Hungary lost two-thirds of its territory and population, including more than three million ethnic Hungarians. Reclaiming these lost territories and 'reuniting' the 'nation' became a central concern of interwar Hungarian politics, the aim of national reunification also shaping the political leadership's decisions during World War II. However, after the country's defeat on the side of the Axis and subsequent incorporation into the Eastern Bloc, irredentist agendas and ethnocultural conceptions of nationhood remained repressed for decades. These topics and claims could only re-emerge in the late 1980s, and Hungary's Constitution of 1989 included the stipulation that the 'Republic of Hungary feels responsible for the fate of the Hungarians living outside its borders and promotes the maintenance of their relations to Hungary.'¹

¹ 6. § (3) of Act XXXI of 1989 amending the Constitution of 1949. Paragraph 6. § (1), on the other hand, rejected the possibility of any future territorial aggressions, claims and threats in the detriment of other countries' sovereignty. The original text of the Act is available in the EUDO-Citizenship database on National Citizenship Laws, <http://eudo-citizenship.eu/databases/national-citizenship-laws>

While ethnic nationalism has seen a spectacular revival since the early years of postsocialism, the constitutional order, nevertheless, remained fundamentally reliant on a civic definition of nationhood, with the ethno-cultural principle creeping in merely as a ‘complementary element.’² It is in this respect that the ‘simplified naturalization’ introduced by the modification of the Citizenship Act in 2010³ constitutes a significant shift in official identity- and diaspora politics.⁴ According to the new citizenship legislation, descendants of Hungarian citizens—or those who can ‘demonstrate the plausibility’ of such descent—who can prove knowledge of the Hungarian language, can undergo a simplified procedure to acquire Hungarian citizenship, with the usual requirements of residence, subsistence and a test of constitutional knowledge all being waived.⁵

While the compatibility between ethnic preferentialism in citizenship legislation and liberal democratic norms has been hotly debated,⁶ the significance of the 2010 amendment to the Act on Hungarian Citizenship is much broader. On the one hand, it is the closing act of a lengthier process of national ‘soul-searching’ and party-political maneuvering which has dramatically shaped the current political land-

² Zoltán Kántor and Balázs Majtényi, “A ‘kettős állampolgárság’—népszavazás, politikai vita, érvek,” in *Romániai Magyar Évkönyv 2004/2005*, ed. Barna Bodó (Temesvár: Marineasa, 2005), 213–228.

³ ‘Act XLIV of 2010 amending Act LV of 1993 regarding Hungarian citizenship.’ Available in both Hungarian and English translation at <http://www.allampolgarsag.gov.hu/>

⁴ Balázs Majtényi, “Etnikai származás és állampolgárság,” *Jogi Iránytű* 1 (2011), accessed May 19, 2019, http://jog.tk.mta.hu/uploads/files/Jogi_Iranytu/Jogi_Iranytu_2011_1_Majtenyi_Balazs.pdf, Myra A. Waterbury, *Between State and Nation: Diaspora Politics and Kin-state Nationalism in Hungary* (1st ed.) (New York: Palgrave Macmillan, 2010).

⁵ Judit Tóth. *UPDATE: Changes in the Hungarian Citizenship Law and adopted on 26 May 2010*. (San Domenico di Fiesole: EUI, EUDO Citizenship Observatory, 13 July 2010, accessed May 19, 2019, <http://eudo-citizenship.eu/docs/CountryReports/recentChanges/Hungary.pdf>).

⁶ Costica Dumbrava, “External citizenship in EU countries.” *Ethnic and Racial Studies* 13 (2014): 2340–2360; Kántor and Majtényi, “A ‘kettős állampolgárság’; Mária M. Kovács, “The Politics of Dual Citizenship in Hungary,” *Citizenship Studies* 4 (2006); Szabolcs Pogonyi, *Extra-Territorial Ethnic Politics, Discourses and Identities in Hungary* (Houndmills: Palgrave Macmillan, 2017); Waterbury, *Between State and Nation*.

scape. On the other hand, it is the starting point of a drastic institutional and ideological restructuring, in which the adoption of the new constitution and electoral reforms were initial steps in the direction of a self-described ‘illiberal democracy.’⁷ With that in mind, this essay aims to examine the internal logic of this broader ideological transformation by questioning the changed meaning of ‘political community’ in the context of extraterritorial ethnic citizenship.

It had been argued by critics that ‘granting nonresident dual citizenship would have the practical effect of merging the Hungarian cultural nation and the political community.’⁸ This essay will question whether such a ‘merger’ can be assumed to be that straightforward in ‘practical’ terms, asking: what is it that shapes a ‘community’ of extraterritorial citizens into an extraterritorial—or ‘transsovereign’⁹—political community? The first proposition to be made is that, at a minimum, *external* citizens become *political* citizens after being also granted voting rights supported by a basic extraterritorial electoral infrastructure—which was delivered by a set of Acts of Parliament during 2011 and 2013.¹⁰ A further step would then be to consider the *active* nature of such political rights, that is, the electoral behavior of the newly enfranchised extraterritorial citizens. There is nothing genuinely new in either of these propositions or approaches.¹¹ But for these observed processes to begin making sense and to highlight the potentially far-reaching

⁷ András L. Pap, *Democratic Decline in Hungary: Law and Society in an Illiberal Democracy* (Abingdon: Routledge, 2018).

⁸ Waterbury, *Between state and nation*, 124.

⁹ Zsuzsa Csergő and James M. Goldgeier, “Nationalist Strategies and European Integration,” in *The Hungarian Status Law: Nation Building and/or Minority Protection*, ed. Zoltán Kántor et al. (Sapporo: Slavic Research Center, Hokkaido University, 2004).

¹⁰ The electoral law was first amended in December 2011 (Act CCIII of 2011 On the Elections of Members of Parliament), followed by changes to the law on electoral procedure, initially adopted in April 2013 (Act XXXVI of 2013 on electoral procedure) and subsequently revised in June and December by Act CCVII of 2013.

¹¹ Boldizsár Nagy, “Nationality as a Stigma: the Drawbacks of Nationality (What Do I Have To Do With Book-Burners?),” *Corvinus Journal of Sociology and Social Policy* 2 (2014); Pogonyi, *Extra-Territorial*; Levente Salat, “A könnyített honosítás látható és várható következményeiről. Válaszok a Magyar Kisebbség kérdéseire,” *Magyar Kisebbség* 3–4/69–70 (2013).

challenges that they pose, one must move beyond the ‘liberal–republican’ normative perspectives that usually drive academic analyses of the topic, and understand the confluence of the 2010 citizenship law, the subsequent changes in electoral legislation and the constitutional reform from an ‘illiberal’ standpoint.¹²

Secondly, these confluent processes together with the national ‘soul-searching’ stretching throughout the 2000s have arguably resulted in *reinterpreting* the political community rather than simply *extending* it, as the assumed ‘merger’ between the cultural nation and the body politic would suggest. Although ‘liberal–republican’ normative analyses would deny any moral equivalence between the ‘de-ethnicizing’ processes which have taken place in North-Western European countries with previously ethno-national citizenship models, and the ‘re-ethnicizing’ processes in the South-Eastern part of the continent,¹³

¹² I use ‘liberal–republican’ and ‘illiberal’ purely as heuristic constructs. The former is derived from Bauböck’s differentiation between four general positions vis-à-vis the expansion of electoral rights beyond nation-state borders: *ethno-nationalism*, *traditional republicanism*, and two varieties of *liberalism*—reliant on the ‘all subjected to coercion’ and ‘all affected interests’ principles respectively—as well as a fifth principle of ‘stakeholder citizenship’ that ‘combines insights from republican and liberal perspectives.’ See Rainer Bauböck, “Expansive Citizenship: Voting beyond Territory and Membership,” *PS: Political Science and Politics* 4 (2005), 686; see also David Owen, “Resident Aliens, Non-resident Citizens and Voting Rights: Towards a Pluralist Theory of Transnational Political Equality and Modes of Political Belonging,” in *Citizenship acquisition and national belonging: migration, membership and the liberal democratic state*, ed. Calder et al. (Basingstoke: Palgrave Macmillan, 2010). ‘Liberal–republican’ refers to this wide pool of principles and combinations thereof, which most starkly contrast ethno-nationalist ones. On the other hand, ‘illiberal’ is meant to denote the ambiguous self-described conception of ethno-national conservatism professed by the Fidesz–Christian Democratic government in power since 2010 (see Pap, *Democratic Decline*). It is not used as a slur, but as to describe a political outlook that, in the words of academic defenders of this version of ‘illiberalism,’ espouses “conservative, communitarian, nationalist, and Christian” values as a reaction to liberalism’s perceived “failure to affirm the values that underpin family, community, and national life” (Frank Furedi, *Populism and the European Culture Wars: the Conflict of Values between Hungary and the EU* (London: Routledge, 2018), 116).

¹³ Christian Joppke, “Citizenship between De- and Re-Ethnicization,” *European Journal of Sociology* 3 (2003).

from an ‘illiberal’ perspective they could both be seen as equally involving what Benhabib¹⁴ has described from a universalist perspective as ‘democratic iterations’: ‘complex processes of public argument, deliberation, and learning through which universalist right claims are contested and contextualized, invoked and revoked, throughout legal and political institutions as well as in the public sphere of liberal democracies.’¹⁵ Substitute ‘universalist’ for ‘ethnic extraterritorial’ and you have a good description of Hungarian debates on ‘nation policy’¹⁶ since the democratic turn; replace ‘liberal’ with ‘illiberal’ and these iterations extend all the way to our present.

Before discussing these processes, I first briefly review the conceptual-normative tensions between de- and re-ethnicization of citizenship policies.

Transnational citizenship between *de*- and *re*-ethnicization

Renegotiating the ethno-cultural and civic-territorial boundaries of the citizenry after these have become challenged by migratory movements and the intergenerational reproduction of ‘otherness’ and transnational ties has been central to what we may call a contemporary debate over citizenship for three decades. Arguably, the debate started off as a reaction to Brubaker’s¹⁷ famous discussion contrasting the French legal tradition of *ius soli*—citizenship attribution based on *place* of birth—with Germany’s *ius sanguinis*—citizenship based on *descent*, on ‘blood’—and tracing their roots to divergent—*civic* or *ethnic*—patterns of nation-building. In this early discussion, citizenship was also considered as ‘membership in a large-scale republic that has

¹⁴ Seyla Benhabib, *The Rights of Others: Aliens, Residents and Citizens* (Cambridge: Cambridge University Press, 2004).

¹⁵ *Ibid.*, 19.

¹⁶ Zoltán Kántor, “Status Law and ‘Nation Policy’: Theoretical Aspects,” in *The Hungarian Status Law: Nation Building and/or Minority Protection*, ed. Zoltán Kántor et al. (Sapporo: Slavic Research Center, Hokkaido University, 2004).

¹⁷ Rogers Brubaker, *Citizenship and Nationhood in France and Germany* (Cambridge, MA and London: Harvard University Press, 1992).

boundaries roughly conforming to some partly pre-existing “national” community.’¹⁸

The revival of the civic/ethnic and the concomitant West/East divide—entailing also a progressive/regressive value judgement—has since been forcefully challenged on empirical grounds.¹⁹ It has been argued that identifiable processes of *de-* and *re-ethnicization* effect a convergence between citizenship traditions,²⁰ although the inclusion of Central-Eastern Europe in the comparative analysis arguably reveals a trend of ‘legal divergence.’²¹ Citizenship scholars have also argued that states are not only causally constrained by their ideologies of nation-building, but immigration itself is central to redefining nationhood.²² Moreover, in seeking to reconnect with the descendants of former citizens who had left the country at certain historical political-economic conjunctures, states are increasingly involved in what has been described as a ‘scramble for citizens,’²³ or more accurately, for the *right kind* of citizens. As Waterbury²⁴ has noted with a healthy sense of

¹⁸ Rogers M. Smith, “Citizenship and the Politics of People-Building,” *Citizenship Studies* 1 (2001): 73; Yasemin N. Soysal, *Limits of Citizenship: Migrants and Postnational Membership in Europe* (Chicago, IL: University of Chicago Press, 1994).

¹⁹ Rainer Bauböck and André Liebich, eds., *Is There (still) an East-West Divide in the Conception of Citizenship in Europe?* (Fiesole: EUDO Citizenship Observatory, 2010); Oxana Shevel, “The Post-Communist Diaspora Laws: Beyond the ‘Good Civic versus Bad Ethnic’ Nationalism Dichotomy,” *East European Politics & Societies*, 1 (2010); Stephen Shulman, “Challenging the Civic/Ethnic and West/East Dichotomies in the Study of Nationalism,” *Comparative Political Studies* 5 (2002), Smith, “Citizenship”; Patrick Weil, “Access to Citizenship: A Comparison of Twenty-five Nationality Laws,” in *Citizenship Today: Global Perspectives and Practices*, eds. Alexander T. Aleinikoff and Douglas Klusmeyer (Washington, DC: Brookings Institution, 2001).

²⁰ Joppke, “Citizenship Between”; Weil, “Access to Citizenship.”

²¹ Aleksandra Maatsch, *Ethnic Citizenship Regimes: Europeanization, Post-war Migration and Redressing Past Wrongs* (Houndmills, Basingstoke: Palgrave Macmillan, 2011).

²² Christian Joppke, *Immigration and the Nation-state: The United States, Germany, and Great Britain* (Oxford: Oxford University Press, 1999).

²³ David Cook-Martín, *The Scramble for Citizens: Dual Nationality and State Competition for Immigrants* (Stanford, CA: Stanford University Press, 2013).

²⁴ Myra A. Waterbury, “Bridging the Divide: Towards a Comparative Framework for Understanding Kin State and Migrant-sending State Diaspora

well-founded cynicism, ‘populations abroad represent a set of unique cultural, material and political resources for homeland state elites.’²⁵ Underpinned by a worldwide trend towards increasing acceptance of dual citizenship²⁶ these processes raise important questions about the de-territorialization and fragmentation of citizenship.

Significantly less attention has been paid, however, to the ‘movement of borders over people’ than to the movement of people over borders.²⁷ There is, in particular, a notorious imbalance in academic discussions of kin-states’ engagement with kin-minorities, and migrant-sending states’ engagement with emigrants, and their respective descendant living abroad, although in terms of structure and political dynamics the two cases present many similarities.²⁸ Transnationalism scholarship—as Pogonyi noted—has focused disproportionately on migrant communities’ engagement with their countries of origin and the latter’s diaspora politics, although the less studied ‘transborder’ kin-communities are arguably ‘the paradigmatic examples of transnational engagement.’²⁹ Rainer Bauböck’s approach to ‘political transnationalism’ is very useful for highlighting the basis of the commonalities between the two.³⁰ What is important from this perspective is not so much migrants’ continued political orientation towards their origin countries, but ‘their increasing opportunities to combine external and internal status and affiliations.’³¹ In other words, the significance of *political* transnationalism lies in the actions

Politics,” In *Diaspora and Transnationalism: Concepts, Theories and Methods*, eds. Rainer Bauböck and Thomas Faist (Amsterdam: Amsterdam University Press, 2010), 146.

²⁵ See also Joppke, “Citizenship Between.”

²⁶ Maarten Vink, Gerard-Rene De Groot, and Ngo C. Luk, “MACIMIDE Global Expatriate Dual Citizenship Dataset,” *Harvard Dataverse*, v3, 2015, accessed May 20, 2019, doi:10.7910/DVN/TTMZ08.

²⁷ Rogers Brubaker, “Migration, Membership, and the Modern Nation-State: Internal and External Dimensions of the Politics of Belonging,” *Journal of Interdisciplinary History* 1 (2010): 69.

²⁸ Dumbava, “External Citizenship”; Pogonyi, *Extra-Territorial*; Waterbury, “Bridging the Divide.”

²⁹ Pogonyi, *Extra-Territorial*, 81.

³⁰ Rainer Bauböck, “Towards a Political Theory of Migrant Transnationalism,” *International Migration Review* 3 (2003).

³¹ *Ibid.*, 703.

taken by countries of origin that regulate external (or *extraterritorial*) legal categories of membership.

In his later analysis of political transnationalism, Bauböck³² has directly touched upon these similarities when discussing ‘ethnizenship’ and ‘denizenship’ as two further transnational legal categories complementing ‘dual citizenship.’ The so-called ‘denizens’³³ can enjoy certain quasi-citizenship privileges based on ‘residency’ on the territory of a destination country—*ius domicilii*—which mostly derive from universal, cosmopolitan, legal norms.³⁴ ‘Ethnizenship,’ on the other hand, is somewhat the converse of denizenship, a form of ‘external quasi-citizenship’ granted to co-ethnics living on the territory of another state.³⁵ Both ‘denizenship’ and ‘ethnizenship’ can count as first steps towards full membership; the former produces resident citizens with potentially different ethno-cultural heritage, while the latter creates extraterritorial non-resident citizens sharing the ethno-cultural heritage of the citizenship-granting nation-state, as in the case of Hungary.

In empirical terms, currently only six EU member states place any serious restrictions on the external acquisition of citizenship either at birth—through *ius sanguinis*—or by naturalisation. Half of the twenty-eight member countries—including Hungary—adopt an ‘unqualified’ *ius sanguinis*, by which children of citizens automatically become citizens even if born abroad. Eighteen countries also allow for former citizens and their descendants to (re)acquire citizenship without residence requirements.³⁶ These legal empirical realities connect the various case-specific instances to rather similar outcomes in respect to the territoriality of contemporary citizenship. As the tragically late Kim Barry noted, ‘migration decouples citizenship and residence’ to the effect that ‘[t]oday states are constituted increasingly by large numbers of resident noncitizens as well as nonresident, or external citizens—those

³² Rainer Bauböck, “Stakeholder Citizenship and Transnational Political Participation: A Normative Evaluation of External Voting,” *Fordham Law Review* 5 (2007).

³³ Tomas Hammar, *Democracy and the Nation State: Aliens, Denizens and Citizens in a World of International Migration* (Aldershot: Avebury, 1989).

³⁴ Benhabib, *The Rights of Others*; Soysal, *Limits of Citizenship*.

³⁵ Bauböck, “Stakeholder Citizenship.”

³⁶ Dumbrava, “External Citizenship.”

who reside elsewhere.³⁷ From the perspective of political transnationalism, external citizenship laws targeted at ethnic kin populations deliver similar effects regardless of whether their forbearers had once emigrated or not.

Yet they are rarely considered as remotely equivalent in respect to the ethics of membership. For example, in Benhabib's understanding, contemporary political membership requires balancing between 'Westphalian' statist claims of sovereign self-determination and 'post-Westphalian' adherence to universal human rights 'through an *internal reconstruction* of these dual commitments.'³⁸ It is accepted that 'the boundaries of the political community, as defined by the nation-state system, are no longer adequate to regulate membership,' and that through 'reflexive acts of self-constitution ... the boundaries of the demos can be readjusted.'³⁹ However, as it follows from our earlier discussion, often more than two commitments need to be negotiated, such as a further one towards a 'transsovereign' ethnic ideal increasingly asserted in many parts of the world.⁴⁰ But while the internally inclusive reconfiguration of the boundaries of the demos is celebrated, externally inclusive readjustments evoke scepticism. This dynamic is often shaped by political ideological differences across a left-right divide, as Joppke⁴¹ explained in respect to the tension between de- and re-ethnicising citizenship policies. However, both processes are arguably driven by similar 'jurisgenerative politics,' as will be discussed in respect to Hungary's extraterritorial citizenship law.

The jurisgenerative politics of extraterritorial citizenship in Hungary

In one of her case-studies examining democratic iterative processes in contexts where immigration had created the need to reconsider

³⁷ Kim Barry, "Home and Away: The Construction of Citizenship in an Emigration Context," *New York University Law Review* 1 (2006): 17.

³⁸ Benhabib, *The Rights of Others*, 2 (emphasis in the original).

³⁹ *Ibid.*, 1, 48.

⁴⁰ Csergő and Goldgeier, "Nationalist Strategies."

⁴¹ Joppke, "Citizenship Between."

the rights of internal ‘others,’ Benhabib revisits Germany’s decade-long struggle during the 1990s to *de-ethnicize* and redefine its *demos* through reforming the citizenship law.⁴² The process involving ‘intense and soul-searching public debate’ eventually led to radical ‘transformations of German public consciousness in the 1990s.’⁴³ Such democratic iterations, for Benhabib, necessarily involve a dimension of ‘jurisgenerative politics’ reliant on ‘contestation around rights and legal institutions,’ and through which ‘others become hermeneutical partners with us by reappropriating and reinterpreting our institutions and cultural traditions.’⁴⁴

In a sense, similar processes have characterized the shaping of Hungary’s extraterritorial citizenship, in a context where not immigration but the continued symbolic significance of the movement of borders across people had reinforced the need to consider the rights of *external* ‘others.’ Arguably, ‘Hungarians living outside the borders’—especially those living on territories that used to be part of the Hungarian Kingdom—towards whom Hungary has declared a constitutional responsibility early on in its democratisation process, as noted in the introduction, have served the double role of being simultaneously members of the nation’s ‘ethical self’ and representing its ‘sociological others’ needing to become ‘hermeneutical partners’ in a reappropriation and reinterpretation of the institutional and cultural vestiges of the socialist years. We can think here of the well-documented spread of a ‘civic,’ ‘political,’ nation-state centered definition of ‘nationhood’ during socialism, to which Guy Lázár’s sociological studies from the 1970s–80s bear testimony.⁴⁵ Without attempting to review the entire iterative process that resulted in the ‘Simplified Naturalization Act’ of 2010, I will highlight its fundamental structure.⁴⁶ As a whole, we can

⁴² Benhabib, *The Rights of Others*.

⁴³ *Ibid.*, 208.

⁴⁴ *Ibid.*, 169.

⁴⁵ Guy Lázár, “Kik tartoznak a nemzethez? Fiatalok a magyarság ismérveiről és a határokon túli magyarokról,” *Magyar Kisebbség* 3–4/69–70 (2013). For an English summary of some of these findings, see Miklos Szabolcsi, “Ethnocentrism in education: a comparative analysis of problems in Eastern and Western Europe,” *Prospects - Quarterly Review of Education*, 2 (1989).

⁴⁶ A detailed empirical analysis has already been undertaken in Waterbury, *Between State and Nation*.

view it as Hungary's own 'soul-searching' struggle to redefine its demos in a move towards a *re*-ethnicization rather than *de*-ethnicization.

FROM 'OTHERS' TO ETHNIZENS TO CITIZENS

The alternating democratic governments have interpreted and held to the post-1989 constitutional responsibility for the fate of trans-border Hungarian communities in different ways, and during the prolonged process of European integration so-called 'Hungarian–Hungarian relations' have been somewhat uneven, 'nationhood' often becoming the terrain of 'political competition'.⁴⁷

Proposals for an extraterritorial citizenship first surfaced in the early second half of the 1990s, being formulated by the World Federation of Hungarians (MVSZ), an originally irredentist global 'diaspora' organization established in 1938 and reinstated in 1992 to 'represent the entire Hungarian nation'.⁴⁸ In 1998 the MVSZ publicly presented external citizenship as one of its main political goals,⁴⁹ the issue forcing political parties to express their stance right in the finish of an electoral campaign following which the center-right Fidesz would form government.⁵⁰ As often mentioned by commentators, the party that will have become responsible for almost unilaterally implementing the current

⁴⁷ Zsuzsa Csergő and James M. Goldgeier, "Kin-State Activism in Hungary Romania, and Russia: The Politics of Ethnic Demography," in *Divided Nations and European Integration*, eds. Mabry et al. (Philadelphia: University of Pennsylvania Press, 2013), Nándor Bárdi, "Different Images of the Future of the Hungarian Communities in Neighbouring Countries, 1989–2012," *European Review* 4 (2013), Waterbury, *Between State and Nation*.

⁴⁸ See the available information on the Federation's website: www.mvsz.hu. It should be mentioned, however, that the idea of 'dual' citizenship as a solution to the problems faced by trans-border Hungarians was put forward as early as 1992 by prominent liberal intellectuals such as György Konrád and László Végel (See György Szerbhorváth, „A mi utcánk,” *Élet és Irodalom*, 19 November 19, 2004, accessed May 20, 2019, https://kisebbssegkutato.tk.mta.hu/kettosallampolgarsag/publicisztika/pub_069.html, Sándor Balogh, Zsolt Németh and Károly Ravasz, “A kettős állampolgárságról: Kerekasztal-beszélgetés,” *Vasárnapi Újság*, April 19, 1998, accessed May 20, 2019, <http://www.gecse.eu/17.html>).

⁴⁹ Waterbury, *Between State and Nation*.

⁵⁰ Balogh et al., “A kettős állampolgárságról.”

preferential naturalization law had been rather split on the issue at that time. Nevertheless, as Benhabib reminds us in respect to jurisgenerative politics in general, '[p]olitical agents, caught in such public battles, very often enter the fray with a certain understanding of who they are and what they stand for; but the process itself frequently alters these self-understandings.'⁵¹

Following its 1998 election victory Fidesz set out to map other avenues for resolving the so-called 'Schengen problem' caused by Hungary's beginning of EU 'accession talks' earlier than its neighbors. After lively debates, the government finally adopted in 2001 the so-called 'Status Law' granting certain 'ethnizen' rights to Hungarians living in neighboring countries.⁵² A result of several compromises, the final version of the proposal represented little more than a 'benefit law.'⁵³

It was during this period, between the first Fidesz government's accession to power and somewhat unexpected defeat in the 2002 general elections, that the jurisgenerative parameters of Hungarian identity politics were laid out. As pointed out by Kántor, designing a 'nation policy' implied 'the need to define, directly or indirectly, *who is Hungarian*,⁵⁴ and this question would come to dominate all aspects of Hungarian domestic politics for the coming decade.

The topic of extraterritorial citizenship remained more or less tacitly on the agenda of right-wing groups dissatisfied with the compromises of the 'Status Law,' and it was publicly raised again during summer 2003, when the MVSZ announced that it would begin collecting signatures for a petition proposing a referendum on the issue.

⁵¹ Benhabib, *The Rights of Others*, 209.

⁵² Officially 'Act LXII of 2001 on Hungarians Living in Neighbouring Countries,' adopted by Parliament on 19 June 2001. For a thorough analysis of the debates surrounding it, see Zoltán Kántor et al., eds. *The Hungarian Status Law: Nation Building and/or Minority Protection* (Sapporo: Hokkaido University, Slavic Research Center, 2004).

⁵³ Osamu Ieda, "Post-communist Nation Building and the Status Law Syndrome in Hungary," in Kántor et al., *The Hungarian*, 11. Compromise had to be reached on three levels: first, domestically with the socialist and liberal opposition parties; second, at the intergovernmental level with neighboring countries whose legal citizens the proposal was aimed at; and thirdly, on the European level, with the Venice Commission being the major body involved.

⁵⁴ Kántor, "Status Law." 105 (italics in the original).

While the proposition was received again with certain skepticism, from the safety of serving in opposition Fidesz eventually joined in on the cause. After the successful petition campaign a referendum was scheduled for December 2004, opening up the scene for a short political campaign that would clearly set the political Right against the socialist-liberal ruling coalition which chose to instigate sentiments of welfare chauvinism to counter the symbolic nationalism of the conservatives.⁵⁵

The process rekindled the previous debate, during which answers to the question of ‘who is Hungarian’ had already gained contour along party fault-lines. This is well reflected in the words of George Schöpflin, a preeminent member of Fidesz’s intellectual vanguard, in connection to the debates around the ‘Status Law’:

in trying to find an acceptable political-cultural solution for the problem of the minority Hungarians, Budapest is at the same time struggling against one of the strongest of currents in Europe—the denial of the validity and legitimacy of ethnicity on the part of the hegemonic elites, not to mention their universalist allies in Hungary itself.⁵⁶

The allegation of ‘universalism’ echoes earlier accusations brought against left-wing and liberal political parties and individuals, of being ‘unnational,’ ‘antinational’ or ‘cosmopolitan’—‘the latter often a catchword for inauthentically Hungarian.’⁵⁷ Falling short of being ‘authentically Hungarian’ on political grounds would, of course, have no serious extra-rhetorical consequences, unless maybe if the entire constitutional order is reconstructed on ethnocultural foundations, as it arguably happened in 2011–2012.

Eventually, the 2004 referendum was unsuccessful due to low turnout, even though the opposition had succeeded in tying the question on ‘dual citizenship’ to a more mundane one about hospital privatization. The outcome induced a deep schism between ‘trans-border’ Hungarians and the ‘mother-country’ as well as further polarizing the political arena,

⁵⁵ Kovács, “The Politics of Dual Citizenship.”

⁵⁶ György Schöpflin, “Citizenship and Ethnicity: The Hungarian Status Law,” in Kántor et al., *The Hungarian*, 103.

⁵⁷ Waterbury, *Between State and Nation*, 62.

and in fact the entire ‘nation,’ along political-ideological divisions. What could be more telling in respect to both than the reaction of Transylvanian (Romania) reverend Csaba Böjte to the outcome: ‘I think we all felt, even if we did not want to take notice of it, that our great family, nation is sick. The fifth of December has unraveled the healthy and the sick parts.’⁵⁸ This assessment became officially shared by Fidesz, whose ensuing political strategy—not to say its entire political identity—was recast in opposition to its ideological *enemy*, the ‘antinational,’ ‘universalist,’ ‘sick’ part of the Hungarian national and political community. Parallels between the politics of Fidesz and Schmittian conceptions of the ‘political’ have already been explored in some depth in other studies.⁵⁹ It could also be argued that constructions of enmity along similar antagonisms are deeply rooted in the cultural history of Hungarian popular and populist movements, or that ‘anti-populist’ movements and parties engage in such politics at least to a similar extent.⁶⁰ Yet, it is worth noting that it was the deliberative environment of the ‘dual citizenship’ debates of the early 2000s which have provided an arena for Fidesz to develop the maneuvers of rhetorical partisanship that would eventually propel it to victory in the 2010 ‘polling booth revolution.’⁶¹

The political consequence of the failed referendum was, therefore, to tie the parties that had taken opposing stances on the question to their positions, ‘dual citizenship’ becoming an election promise of the center-right opposition.⁶² The promise was fulfilled following the 2010 elections, when, as result of a protracted democratic leadership crisis,

⁵⁸ Csaba Böjte, “Jaj a népszavazás győzteseinek!,” *Krónika*, December 10, 2004, accessed May 20, 2019. https://kisebbssegkutato.tk.mta.hu/kettosallampolgarsag/publicisztika/pub_221.html

⁵⁹ E.g. Márton Szabó, “Ellenfél és ellenség a politikában,” *Politikatudományi Szemle*, 1 (2007).

⁶⁰ Furedi, *Populism*, 128.

⁶¹ The post-election ‘Proclamation of National Cooperation’ that was required to be displayed in most public buildings stated: ‘In spring 2010, the Hungarian nation gathered its strength once again, and brought about a successful revolution in the polling booth. Parliament declares that it recognizes and will respect this constitutional revolution,’ see *The Economist*, “Read the large print,” *The Economist*, July 4, 2010, accessed May 20, 2019, <http://www.economist.com/blogs/easternapproaches/2010/07/hungary>

⁶² Meanwhile, through *Act XLVI of 2005*, the socialist-liberal government eased access to citizenship for ethnic Hungarian migrants wishing to settle,

the center-right Fidesz–Christian Democratic People’s Party alliance secured a two-third supermajority in the parliament. On 26 May, two weeks after the official announcement of election results and three days prior to the new Prime Minister’s oath of office, the amendment to the citizenship act was passed without any further consultations, although it should be noted that parliamentarians of all parties voted overwhelmingly in favor, and the new Socialist Party leadership later also officially distanced itself from the party’s previous stance.⁶³

The ‘Simplified Naturalization Act’ has brought closure to the deeply divisive 2004 referendum, and, while it is unlikely to have also settled, once and for all, the definition of national identity or even the parameters of kin-state activism, it has certainly concluded Hungary’s jurisgenerative moment. Its symbolic consummation was the ceremonial conferral in the Dome Hall of the Parliament of the half millionth new citizenship to reverend Csaba Böjte on 5 December 2013—a date intended to redress ‘the shame caused by the national betrayal’ of the failed referendum of nine years before.⁶⁴

EXTERNAL CITIZENS AND POST-HOC DEMOCRATIC LEGITIMATION

Several factors have helped to solidify the democratic legitimacy of the law in the years following its adoption. First, from the legislators’ perspective, the modified citizenship act is an unquestionable success. By May 2016 almost 801,000 people had applied for simplified naturalization, of which 762,000 already received citizenship,⁶⁵ and

eliminating the one-year residence requirement and waiving citizenship tests for certain applicants. See Kántor and Majtényi, *A ‘kettős állampolgárság.’*

⁶³ ‘Act XLIV of 2010, on the modification of Act LV of 1993 regarding Hungarian citizenship.’ The motion was passed with 344 supporting votes, three votes against, and 5 abstentions. On the process and timetable of government formation, see the Parliament’s website: <http://www.parlament.hu/fotitkar/alakulo/ciklusvalt.htm>

⁶⁴ MTI, “Letette az állampolgársági esküt a félmilliomodik külhoni magyar,” *MTI hírchívum 1988–2015*, December 5, 2013, accessed May 20, 2019, <http://archiv1988tol.mti.hu/Pages/HirSearch.aspx?Pmd=1>.

⁶⁵ Zoltán Kántor, “Két állampolgárság—két szavazat—két politikai közösség,” Paper presented at the annual meeting of the Hungarian Society for Political Science, Esztergom, June 16, 2016.

an earlier aim of the government to confer one million citizenships based on the simplified naturalization procedure by 2018⁶⁶ was also reached on 16 December 2017.⁶⁷ Over 97 per cent of all applicants are citizens of Romania, Serbia and Ukraine, neighboring countries with high number of Hungarian ethnic minority populations.⁶⁸ If we examine these applications alongside regional demographic, economic and political contextual factors, we find that 23 per cent of those who would presumably satisfy the strictest elements of the eligibility criteria—based on self-declared knowledge of the Hungarian language—had already applied for preferential naturalization during the first three years (Table 5.1). This average is heavily reduced by the low application rate of Slovakian Hungarians—the second largest minority Hungarian group –, who not only have less practical incentives to take up Hungarian citizenship, but also face the threat of losing their Slovak one, since Slovakia has imposed restrictions on dual citizenship in reaction to the Hungarian law.⁶⁹ In contrast, the greatest share of applicants is among Hungarians in Ukraine, where dual citizenship is also unrecognized, but its policing—at least in respect to Hungarians—is laxer. Pragmatic reasons could also be mentioned, and Table 5.1 highlights some macroeconomic and geopolitical differences that may add practical value to Hungarian citizenship should one choose to migrate, but we should be wary of drawing too strict causal connections between economic incentives and naturalization motivations. As

⁶⁶ MTI, “Wetzel: 2018-ra egymillióan szerezhetnek magyar állampolgárságot,” *MTI hírchívum 1988–2015*, August 26, 2014, accessed May 20, 2019, <http://archiv1988tol.mti.hu/Pages/HirSearch.aspx?Pmd=1>.

⁶⁷ MTI, “Nemzeti egység alakult ki a kettős állampolgárság kérdésében,” *Origo.hu*, December 17, 2017, accessed May 20, 2019, <http://www.origo.hu/itthon/20171217-nemzeti-minimum-alakult-ki-a-kettos-allampolgarsag-kerdeseben.html>.

⁶⁸ Kántor, *Két állampolgárság*.

⁶⁹ Slovakia was the only country to take an adversarial stance and counteractions (See Rainer Bauböck, ed. *Dual citizenship for transborder minorities? How to respond to the Hungarian-Slovak tit-for-tat*, EUI Working Paper RSCAS 2010/75 (Florence: Robert Schuman Center for Advanced Studies, European University Institute, 2010), <http://hdl.handle.net/1814/14625>, Ágnes Tóttós, “The Effects of an EU Member-State’s Modified Citizenship Law: The Hungarian Example, With a Particular Focus on the Aspects of Free Movement,” *Central and Eastern European Migration Review* 1 (2017)).

Table 5.1: Hungarians in neighboring countries and early simplified naturalisations (SN)

Country	Hungarian population ^(E,L)	SN applications, by Citizenship (Sept. 2013)		GDP in 2011		EU	Dual citizenship allowed
		No.	As row % of ^(L)	Per capita Intl\$	As % of EU27 average		
Hungary	9,937,628a	–	–	22,737	67.9	Yes (2004)	Yes
Romania	1,227,623E 1,259,914L	330,970	26.3	17,363	51.9	Yes (2007)	Yes
Slovakia	458,467E 508,714L	1,707	0.3	25,560	76.4	Yes (2004)	No
Serbia	253,899E 243,146L	92,188	37.9	12,572	37.6	No	Yes
Ukraine	156,600 141,000c	64,030	45.4	8,295	24.8	No	No
Croatia	14,048E 10,231L	1,422	13.9	20,571	61.5	Yes (2013)	Yes

Sources:

Hungary: Census 2011 (<http://www.ksh.hu/nepszamlalas/>); Romania: Census 2011 (<http://www.recensamanromania.ro/rezultate-2/>); Slovakia: Census 2011 (<http://slovak.statistics.sk/>, direct link: <http://ow.ly/LoOmm>); Serbia: Vladimir Đurić et al., Etnokonfesionalni i Jezički Mozaik Srbije (Belgrade: National Institute of Statistics, 2014); Ukraine: Census 2001 (<http://2001.ukrcensus.gov.ua/eng/results/general/nationality/>) and Balázs Kapitány, “Kárpát-medencei népszámlálási körkép,” Demográfia 1 (2013); Croatia: Census 2011 (http://www.dzs.hr/default_e.htm). On ‘simplified naturalisations’: <http://allampolgarsag.gov.hu/>

Notes:

- a: Total population, of which 1,623,599 declared themselves as members of ethno-national minority groups;
 b: Slovakia amended its nationality law to limit dual citizenship as a response to Hungary’s new citizenship legislation;
 c: The planned 2010 Census has been postponed until 2020. Local researchers estimate the current Hungarian population of the Zakarpatska county to be at around 141,000;
 E: ‘ethnicity’;
 L: mother-tongue or main language.

qualitative studies have shown, motivations are rarely monolithic, but almost always involve familial, sentimental, ethical and various prerogative reasons besides pragmatic ones.⁷⁰

The public acceptance of the law has also consolidated. Domestic support for ‘dual citizenship’ had already reached 65 per cent by 2009,⁷¹ and polls in 2012 have shown comparable levels of acceptance, despite significant differences based on party preferences.⁷² Surveys of Hungarians in Romania have also registered a clear increase in 2013 compared to the previous year in both the level of approval of the law and intentions to apply.⁷³ At a press conference held in December 2017 in honor of the one-millionth simplified naturalization, Fidesz floor leader Gergely Gulyás declared that there is now almost complete ‘national unity’ in support of external citizenship.⁷⁴

New-old points of criticism emerged on four fronts. First, in respect to the law’s ethno-cultural character, but in particular its internally exclusive nature when considered together with other changes to the naturalization law.⁷⁵ Second, its practical outcomes were seen by some as potentially undermining the political strength of transborder Hungarian communities.⁷⁶ Thirdly, the harshest criticisms concerned the extension of voting rights, which had not initially figured in the extraterritorial citizenship package.⁷⁷ All these points of contention relate, in one form or another, to the emergence of an ethno-cultural extraterritorial political community and the various interpretations given to such an entity. In the next sections I turn to the *ethno-cultural* and the *political* dimensions of extraterritoriality. What will become

⁷⁰ Attila Z. Papp, “Kisebbségi identitáskonstrukciók a kettős magyar állampolgárság által,” *Regio 1* (2014), Pogonyi, *Extra-Territorial*

⁷¹ Waterbury, *Between State and Nation*, 141.

⁷² Tamás Kiss and Gergő Barna, *Erdélyi magyarok a magyarországi és a romániai politikai térben* (Cluj-Napoca: Institutul Pentru Studierea Problemelor Minorităților Naționale, 2013), 64.

⁷³ Kiss and Barna, *Erdélyi magyarok*

⁷⁴ MTI, “Nemzeti egység”

⁷⁵ Tóth, *UPDATE*

⁷⁶ Salat, “A könnyített honosítás”, Levente Salat, “A politikai közösség kérdése a többség-kisebbség viszonyának a nézőpontjából,” *Magyar Kisebbség* 3–4/61–62 (2011).

⁷⁷ Nagy, “Nationality.”

obvious is that the shaping of a new ideal of ‘political community’ is an ongoing process which relies on broader legal transformations that complement the new Simplified Naturalization procedures. If the latter is the result of the democratic iterations discussed above, the new meaning of the ‘political community’ is being forged through distinctively ‘illiberal’ means.

The ethno-cultural contours of extraterritorial citizenship

The legislators’ careful attempt to balance ethnic and civic principles in such a way that the law would be acceptable in the context of international legal norms did manage to create certain confusion among critics. On the one hand, some critics of the legislation highlighted the dangers behind the underlying *non-ethnic* requirements. Nagy, for instance, took exception at the fact that while ‘at the level of rhetoric, the leading slogan is national reunification across borders,’⁷⁸ the legislation carries ‘no ethnic preference in words, nor in the formal rules: language knowledge and imperial descent—these are the requirements.’⁷⁹

This assessment rekindled older fears about the potential democratic unbalancing consequences of extraterritorial citizenship. Kovács had earlier assessed that should the current conditions of the citizenship law materialize, then up to 5 million ethnic Hungarians from around the world could become citizens, slightly more than half the size of Hungary’s resident population.⁸⁰ Similarly, Nagy proclaims that ‘if the seven million non-Hungarians [who had been citizens until] 1920 have at least fourteen million descendants today, then more people without any link to Hungarian ethnicity or culture are entitled to preferential naturalization than the whole present population (9.7 million) of Hungary.’⁸¹ Some countries already show such or similar characteristics, for example Ireland, with its actual external citizen population amounting to more than 80 per cent of the resident citi-

⁷⁸ Ibid., 60.

⁷⁹ Ibid., 39.

⁸⁰ Kovács, “The Politics of Dual Citizenship,” 432.

⁸¹ Nagy, “Nationality,” 38–39.

zens, and a *potential* external citizenry at one point ten times greater than the residents⁸². Conversely, in countries like Moldova or Bosnia a majority of resident citizens are also actual or potential external citizens of neighboring states.⁸³

Other critics were more circumspect of the official discursive attempts to mask the ethno-national character of the law. As Majtényi pointed out, while the terms set out in the text are not divorced from the civic conception of the nation, an ethno-cultural interpretation is projected on it by secondary guidance regarding its implementation.⁸⁴ Thus, underneath the non-ethnic appearances—which make it compatible with democratic civic norms—lies in fact an ethno-cultural preference that becomes obvious in the procedural guidance for case-workers.

In realistic terms, the latter assessment is the better substantiated one. At the same time, this does not take away from the imperial undertone; would it have been possible from an international legal standpoint to extend citizenship collectively, thus circumventing the terms of the historical peace treaties—in other words, to unilaterally extend the *ius sanguinis* principle to those who had been citizens before 1920 and their descendants—the government may well have opted for it. The individual choice behind the current naturalization process and the ritual aspects attached to it are, however, significant both legally and sociologically. They are, I would argue, what first transform the *cultural* nation into a *political* one in an ‘illiberal’ sense, as I discuss later.

The most contentious aspects of the ethno-cultural characteristics of the citizenship law, however, become visible when considering other related legislation. In this respect Tóth has noted that besides the preferences granted to co-ethnics, ‘[t]he conditions for non-preferential

⁸² Willem Maas, “Extending Politics: Enfranchising Non-Resident European Citizens,” Paper presented at the 40th Annual Convention of the International Studies Association, Washington, DC, February 17, 1999, accessed May 20, 2019. <http://www.yorku.ca/maas/Maas1999.pdf>.

⁸³ Szabolcs Pogonyi, Mária M. Kovács and Zsolt Körtvélyesi, *The Politics of External Kin-State Citizenship in East Central Europe* (EUI Working Paper RSCAS 2010/06. Florence: Robert Schuman Center for Advanced Studies, European University Institute, 2010), accessed May 20, 2019. <http://hdl.handle.net/1814/19576>.

⁸⁴ Majtényi, “Etnikai származás.”

naturalisation contain a more restrictive public order requirement⁸⁵. It is therefore argued that the external inclusivity of ‘Simplified Naturalization’ has not been balanced out by similar internally inclusive measures, as is often the case when re-ethicizing legislation is adopted⁸⁶. For the emerging vision of ‘political community’ this also means that it becomes further detached from territorial anchors and liberal–republican principles of democracy.

This critique is further enhanced when considering the changes to the citizenship legislation as part of the broader constitutional shift. On the highly symbolic date marking the first anniversary of the establishment of the 2010 Fidesz-Christian Democratic government, the ruling parties, backed with a parliamentary supermajority, signed into law the new Fundamental Law to replace the country’s previous constitution⁸⁷. As Pogonyi emphasizes, the new Fundamental Law’s preamble ‘opens up the possibility of the interpretation that the constitution expresses the will and interest of ethnic Hungarians, whereas the minorities living in the country are only subjects of the Fundamental Law’⁸⁸. Furthermore ‘the inclusion of the principle of *ius sanguinis* in the supreme law without mentioning other modes of acquisition has a clear symbolic message, which reinforces that Hungary is an ethnic nation’⁸⁹. From a liberal–republican viewpoint, the religious and ethnic preferentialism of the new constitution is clearly ‘antiquated’ and ‘anti-democratic.’ In an early assessment, the Venice Commission found that it failed to represent ‘the democratic will-formation of the country’s citizens as a whole’ and not only that ‘of the dominant ethnic group’⁹⁰.

From an ‘illiberal,’ point of view, however, it is the notion of ‘democratic will’ itself which requires reinterpretation. In Frank Furedi’s assessment, the ‘Fundamental Law does affirm values that are traditional and conservative. It is also explicitly illiberal. However, ... it is not anti-democratic’⁹¹. For Furedi, its democratic legitimacy emanates

⁸⁵ Tóth, *UPDATE*, 1.

⁸⁶ Joppke, “Citizenship.”

⁸⁷ Pogonyi, *Extra-Territorial*, 91.

⁸⁸ *Ibid.*, 92.

⁸⁹ *Ibid.*, 92.

⁹⁰ *Ibid.*, 93.

⁹¹ Furedi, *Populism*, 5.

from the ‘overwhelming democratic mandate’ of the government that enacted it and the fact that it did not explicitly undermine the structure of government, the separation of powers or the protection of fundamental rights. While the latter may be true, just as the ethno-cultural dimensions of the Simplified Naturalization law only become explicit through the secondary procedural guidance concerning its implementation, the democracy-undermining consequences of the new ‘illiberal’ constitutionalism may only materialize in conjunction with a variety of subsequent measures and practices⁹². But what is more important from the perspective of our current analysis, I would argue, is not the way in which ‘legally sophisticated’ illiberals navigate the international liberal-democratic legal system,⁹³ but that the various illiberal measures together act to reconstitute the meaning of ‘political community’ and the *demos* from which democratic legitimacy then derives. In this respect, of more import than the ‘overwhelming democratic mandate’ that the Fidesz-Christian Democratic government had secured from domestic voters, is the ethical-symbolic mandate provided by the new *peoples* of the Fundamental Law, which includes the newly naturalized external citizens. This is undoubtedly a circular vision of normative authority, but one that attempts to solve the perennial ‘issue of normative foundation’⁹⁴ not through the *linear* logic on which the Western legal tradition is based, but through a *symbolic* logic that can ‘offer a meaningful sense of continuity to people’s quest for identity’⁹⁵ across temporal and territorial limits.

The political dimensions of extraterritorial citizenship

While it may appear from the previous discussion that it is simply a case expanding the political community along ethno-cultural lines while simultaneously limiting its civic boundaries, two observations

⁹² Pap, *Democratic Decline*.

⁹³ Gábor Halmai, “Legally sophisticated authoritarians: the Hungarian Lex CEU,” *VerfBlog*, March 31, 2017, Accessed May 20, 2019, <http://verfassungsblog.de/legally-sophisticated-authoritarians-the-hungarian-lex-ceu/>.

⁹⁴ Furedi, *Populism*, 41.

⁹⁵ *Ibid.*, 39.

could be made to further refine this perspective. On the one hand, as Salat⁹⁶ has argued, the ‘Simplified Naturalization’ law has in effect passed on the responsibility for the future of Hungarian minorities unto them, and thus their position in respect to *any* political community—within the ‘triadic nexus’ in which they exist⁹⁷—will by and large depend on the degree to which they take advantage of the opportunities granted by the legislation. Based on early naturalization statistics and survey results showing a determined political reorientation among Romanian Hungarians towards Hungary,⁹⁸ he deems that the law has had the ‘gruesomely perverse’ effect of undermining the development of sub-state Hungarian political communities in the neighboring countries.⁹⁹ Similar arguments regarding the possible effects of extraterritorial citizenship had already been made in theoretical terms,¹⁰⁰ and they are unquestionably valid from an institutional perspective even if sociological differences between domestic-majority Hungarians and external-minority Hungarians may hinder the extent to which external citizens can fully ‘reorient’ towards Hungary.¹⁰¹ The role of individual choice in determining the substantive content of political community (a point stressed by Papp¹⁰²) is also important in this respect. As Salat pointed out, for many the law may ‘carry the message that to be a good Hungarian one must exercise the right to reacquire Hungarian citizenship.’¹⁰³ Those who do not exercise this right, on the other hand, will risk being excluded from the burgeoning political community, one which is partially open on ethno-cultural grounds, but which requires that members actively opt in as a fundamental political gesture.

⁹⁶ Salat, “A könnyített honosítás”

⁹⁷ Rogers Brubaker, *Nationalism Reframed: Nationhood and the National Question in the New Europe* (Cambridge: Cambridge University Press, 1996), Ch. 3.

⁹⁸ Kiss and Barna, *Erdélyi magyarok*

⁹⁹ Salat, “A politikai közösség”

¹⁰⁰ Rainer Bauböck, “The Trade-Off between Transnational Citizenship and Political Autonomy,” in *Dual Citizenship in Global Perspective*, eds. Thomas Faist and Peter Kivisto (New York: Palgrave Macmillan, 2007).

¹⁰¹ Papp, “Kisebbségi identitáskonstrukciók.”

¹⁰² Ibid.

¹⁰³ Salat, “A könnyített honosítás,” 189.

While the internally exclusive nature of the broader body of citizenship legislation may be said to create internal divisions between ethnic Hungarians and ethnic ‘others,’ the practical effects of ‘Simplified Naturalization’ can therefore also create external divisions. It is unlikely that all who consider themselves members of the ethnic and cultural nation will become citizens, and even though the naturalization target that the government had set itself has been achieved, it still represents less than half of those who may be eligible for naturalization (cf. Table 5.1). Thus, the previously existing discrepancy between the cultural and the political nation remains, while the future is now arguably less certain for those only belonging to the former.

A second dimension which refines the idea that the political community has been simply expanded along ethno-cultural lines emerges in respect to the extension of political rights to extraterritorial citizens. Extraterritorial enfranchisement had initially been explicitly rejected by Fidesz, and has remained for long one of the least popular benefits even among Fidesz supporters.¹⁰⁴ It had even been proposed that one former Fidesz minister’s ruminations during the 2006 electoral campaign that the party could stay in power for twenty years should non-residential citizenship be granted to co-ethnics had cost them that election.¹⁰⁵

Extraterritorial political rights remain controversial even from a ‘restorative justice’ perspective, which is otherwise more accommodating of citizenship (re)acquisition based on previously severed links with the granting state.¹⁰⁶ For Nagy the extension of voting rights has made it ‘obvious that the idea of a self-governing political community is no longer applicable to Hungary.’¹⁰⁷ This assessment is based, on the one hand, on the assumption that external voters can significantly influence the outcome of democratic elections, which will then not affect them in their everyday lives but only those who live on the territory of the state (i.e. neither will they be subjects to domestic laws, nor will their material interests be affected). On the other hand, external ethnic citizens are assumed to have a more favorable attitude to the

¹⁰⁴ Kiss and Barna, *Erdélyi magyarok*

¹⁰⁵ Pogonyi, *Extra-Territorial*, 94.

¹⁰⁶ Dumbrava, “External Citizenship.”

¹⁰⁷ Nagy, “Nationality,” 60.

ruling Fidesz-Christian Democrat coalition parties, due both to ideological and pragmatic reasons.

Empirical data on the political behavior of external citizens substantiates both assumptions. If we examine the outcome of the 2014 general elections, we find that out of approximately 350,000 external citizens of voting age with the right to vote 195,338 had registered on the voters' list, and 158,654 cast their votes; the final number of valid votes amounted to 128,429, with a staggering 95.5 per cent cast in support of the incumbent Fidesz-KDNP coalition.¹⁰⁸ Although external voters could only vote for party lists, it has been shown that this vote had secured one extra seat in the 2014 Parliament for Fidesz, pushing it through the threshold required for a new absolute majority.¹⁰⁹ In the party's assessment, the 2014 general elections provided 'the first opportunity in a century for the Hungarians living in the Carpathian Basin and elsewhere in the world to decide jointly on what kind of Parliament should be elected,' and in this sense, the elections 'were the joint celebration of Hungariandom.'¹¹⁰

In Nagy's interpretation the 2014 election results confirmed that external citizens have 'become loyal voters of the power that acts to extend their opportunities.'¹¹¹ It would be unseemly, however, to condemn any chunk of the electorate for choosing whom they feel best represents their interests—and again, polls among Hungarians in Romania have confirmed that only 6.8 per cent of the respondents felt that Fidesz did not properly represent their interests, compared to over 30 per cent for any other political party, including the more radical Right.¹¹² The true meaning of these 'interests' and their 'representation,' however, could hardly be comprehended from a liberal-republican perspective.

More important are the additional, 'internally' limiting changes to the electoral legislations. As critics have noted, practicing political

¹⁰⁸ Eszter Herner-Kovács, Gergely Illyés and Krisztián Rákóczi, "Külhoni szavazatok a 2014-es magyar országgyűlési választásokon," *Kisebbségkutatás* 2 (2014).

¹⁰⁹ Pogonyi, *Extra-Territorial*, 105.

¹¹⁰ MTI, "Nemzeti egység"

¹¹¹ Nagy, "Nationality", 60.

¹¹² Kiss and Barna, *Erdélyi magyarok*, 26.

rights has effectively become more favorable to ‘external’ citizens compared to domestic citizens who are ‘temporarily’ abroad. The latter category covers all Hungarian migrants regardless of the time they have lived abroad as long as they retain a Hungarian permanent address, and who must vote in person at the diplomatic missions in their respective countries of residence, while ‘external’ citizens have the option of postal voting.¹¹³

Although these limitations on postal voting were initially the outcome of pressure set by civil society actors to ensure electoral transparency,¹¹⁴ in practical terms they do raise fears that the elected Parliament could become too closely shaped according to a party-political vision. Between 2011 and 2016 the number of Hungarian citizens residing long-term in one of the three major EU destination countries alone has increased by almost 207,000,¹¹⁵ and this rising outmigration is often perceived as an ‘exit’ in Hirschmanian sense, in which economic reasons couple with disapproval of the dominant direction in Hungarian politics.¹¹⁶ Thus, if this holds true, and the electoral system *practically* creates differential access to the exercise of political rights to groups of citizens with opposing ideological and party-political orientations, the danger is that a certain vision of politics could come to define the ‘political’ nature of the ‘cultural nation.’

This connects us back to the earlier discussion of the Schmittian character of Hungarian politics, and the political Right’s rhetorical contradistinction between the ‘national’—‘healthy’—and the ‘antinational’—‘sick’—segments of the nation. On the question of what a ‘political community’ shaped by such highly polarized friend–enemy

¹¹³ András Bozóki, *Access to Electoral Rights: Hungary*, EUI Working Paper RSCAS 2013/19. Florence: Robert Schuman Center for Advanced Studies, European University Institute, 2013. Accessed May 20, 2019. <http://hdl.handle.net/1814/29814>, Nagy, “Nationality”, Pogonyi, *Extra-Territorial*

¹¹⁴ Bozóki, *Access*, 7.

¹¹⁵ Chris Moreh, “Az Egyesült Királyságba irányuló magyarországi elvándorlás a magyar és a brit migrációs rendszerek átalakulásának tükrében,” *Ügyész-ségi Szemle* 3 (2017), 92.

¹¹⁶ Albert O. Hirschman, *Exit, Voice, and Loyalty: Responses to Decline in Firms, Organizations, and States* (Cambridge, MA: Harvard University Press, 1970).

distinctions may look like, I believe we can accept Szabó's opinion that such political tactic:

defines the political community as a *moral* community, that is to say, as such a democratic community, whose members are bound together by shared ethical principles, or at least that the person or organization that fails to obey these norms excludes herself from the political community.¹¹⁷

In this interpretation, the emerging 'illiberal democratic' political community is defined to a lesser extent by ethno-cultural criteria, and more by moral and ideological principles. At its extreme, if such a political community could ever materialize, it would be an extraterritorial ethical community based on conservative-Christian values, or *ad absurdum* a 'party-political community' that manages to raise barriers to the democratic inclusion of those who have self-excluded through non-adherence to the community's ethics.

In order to grasp the nature of the emerging extraterritorial political community we must understand it through an 'illiberal' lens and in the spirit of the broader constitutional changes. As proposed earlier, these changes together effected a rewriting of the dominant national narrative; not the inclusion of 'external citizens' *within* or in relation to a territorially defined 'political community,' but rather the reconstitution of the 'political community' itself *through* extraterritorial citizenship. Thus, when *Act CCIII of 2011 on the Elections of Members of Parliament* secures voting rights to external citizens in stating 'that Hungarian citizens living beyond the borders of Hungary shall be a part of the political community,' it is understandable that 'readers versed in political philosophy,' like Nagy,¹¹⁸ would feel puzzled.

The 'political community' invoked, however, is not the one that Nagy would take for granted, but one emanating from the new moral and constitutional order. For this reason, Nagy's ensuing question that "If the Hungarians living beyond the borders are 'part of the political community,' then what makes it political?" is both essential

¹¹⁷ Szabó, "Ellenfél és ellenség," 16 (emphasis in the original).

¹¹⁸ Nagy, "Nationality," 37.

and unanswerable on a liberal–republican platform. It is essential, because inquiring about ‘political community’ means inquiring about the *political* nature of a ‘community’ rather than merely about what shapes collectives into communities subjected to or engaged in political activity.¹¹⁹ What makes it political from an ‘illiberal’ viewpoint, is an assumed common ethical vision of the future, and a sense of historical duty to work together towards achieving an essentially *immaterial* goal—in other words, the same ethical-symbolic arch connecting past, present and future generations that appears in the National Avowal of the new Fundamental Law (cf. Majtényi’s chapter in this volume). Such an understanding of ‘political’ duty is hard to interpret from a liberal–republican perspective because it replicates very closely the constitutive ideals of modern conservatism, which sprang precisely from the rejection of the republican contractarianism of the French revolution.¹²⁰ For an ‘illiberal’ conservative, ‘the Burkean celebration of tradition regards [the values of the past] as providing the moral foundation for political order.’¹²¹

Similarly, the electoral weight of external citizens discussed earlier is also justified through certain communitarian standards based on the ‘kinship principle’ famously formulated by Michael Walzer. This principle sees states more ‘like families rather than clubs, for it is a feature of families that their members are morally connected to people they have not chosen, who live outside the household.’¹²² In this sense, the Hungarian political family is seen as one in which some family members living outside the household are given a strong say in how the household should be organized.

¹¹⁹ Cf. Adrian Little, *The Politics of Community: Theory and Practice* (Edinburgh: Edinburgh University Press, 2002).

¹²⁰ Most notably, in a famous passage in Edmund Burke, *Reflections on the French Revolution & other essays* (London: J. M. Dent & Son, 1910), 93. I also surmise that the substitution of the term ‘covenant’/‘contract’ with that of ‘alliance’ in the Fourth Amendment to the Fundamental Law was done in a presumably unconscious drive to realign it with a Burkean meaning (of contract as ‘partnership’), rather than to intentionally provide it with a religious-transcendent analogy (but cf. Majtényi’s analysis in this volume).

¹²¹ Furedi, *Populism*, 117.

¹²² Michael Walzer, *Spheres of Justice: A Defence of Pluralism and Equality* (New York: Basic Books, 1983), 41.

The question, then, is why a polity within the core institutional frameworks of the current international legal order should apply such an ideologically specific definition of itself. It is unquestionably a definition that ‘invokes the image of a country/people/nation, which is based on tribal, blood-based and historical fantasies,’¹²³ and ‘illiberals’ may not even dispute this. Yet, they may argue that its anachronism consists not so much in being outdated, but instead, in being *ahead* of its time. The broader concerns raised by the processes analyzed in this essay, therefore, are to do not with Hungary’s domestic political developments, but with changes in the international political system in which it is embedded.

Conclusions: a crisis of territoriality or a crisis of liberal imagination?

I began this essay by arguing that while normative distinctions between de-ethicizing legal reforms and re-ethicizing ones may be legitimate on liberal–republican grounds, they are likely to hinder our understanding of developments such as Hungary’s extraterritorial citizenship law. By reference to concepts devised by Benhabib¹²⁴ to describe processes whereby immigration countries such as Germany have redefined their *demos* to include their ‘internal others’ by de-ethicizing their citizenship laws, the essay attempted to highlight some of the procedural and symbolic similarities with the case of Hungary, where similarly lengthy public debates and ‘national soul-searching’ have enabled the legal and political inclusion of the country’s external co-ethnics. The parallel with the Benhabibian narrative has also aided the argument that the extraterritorial extension of political rights did not merely expand the ‘political community,’ but has sought to radically redefine it in line with an ‘illiberal’ ethnical vision.

Through a critical discussion of the ethno-cultural characteristics and the political dimensions of extraterritorial citizenship, the essay has highlighted how Hungary’s preferential citizenship law must be under-

¹²³ Nagy, “Nationality,” 37.

¹²⁴ Benhabib, *The Rights of Others*

stood as intimately related to broader constitutional changes. The combined effect of these changes, the essay argued, is to substantially shift the meaning of ‘political community’ away from one grounded in liberal–republican frames of meaning and towards one structured around ‘illiberal’ ethical values.

Nevertheless, the idea of an extraterritorial political community raises several issues in addition to those commonly envisaged by theorists of post-nationalization. Benhabib herself did not fail to highlight that ‘*territoriality* has become an anachronistic delimitation of material functions and cultural identities,’ but imagined future post-national developments to be in the direction of a neo-Kantian ‘cosmopolitan federalism.’¹²⁵ Other theorists had a much starker view of imagined extra-territorial futures. Bauböck, for instance, has detailed a ‘dystopian’ vision of hypermigration, in which internationally mobile populations would outnumber the immobile, with the effect that the whole process would ‘undermine the very structure of territorial citizenship.’¹²⁶ In Bauböck’s assessment,

the major difference to the contemporary world would not be a devastating increase of cultural diversity, but a loss of heterogeneity within these non-territorial polities, whose members would be self-selected to be similar to each other in their interests, identities and ideologies.¹²⁷

Such a scenario, however unlikely it is in respect to our near future, is not only pulled closer to reality by increasing levels of global mobility, but also, as argued before, by increasing levels of interest by polities in expanding membership to include persons with specific characteristics. Also, in Bauböck’s opinion, such a world would be governed by a libertarian or semi-authoritarian system at a global level.

In similar vein, we may inquire about possible future developments in the international political system that would be normatively

¹²⁵ Ibid., 5.

¹²⁶ Rainer Bauböck, “Temporary Migrants, Partial Citizenship and Hypermigration,” *Critical Review of International Social and Political Philosophy* 5 (2011), 689.

¹²⁷ Ibid., 686.

more accommodating of the ‘illiberal’ extraterritorial community discussed in reference to Hungary. One could build, for instance, on the renewed interest in the idea of ‘neo-medievalism,’ having even been applied directly in reference to the Hungarian ‘Status Law.’¹²⁸ The concept has broadened considerably since Hedley Bull’s¹²⁹ original sparse statements, Falk¹³⁰ already identifying ‘three neomedieval discourses,’ of which the third—relating to ‘the recovery of the sacred’¹³¹—has now expanded to also loosely encompass political theories such as those proposed by new ‘radical traditionalists’ like Alexander Dugin in Russia or Alain de Benoist in France—and actively engaged with in Hungary by radical-right elites (see Jobbik founder and once leader Gábor Vona’s¹³² own ruminations)—and which, while remaining outside mainstream academic political philosophy, have an equal, if not greater, opportunity to influence the future of global geopolitics due to their often unsettling closeness to power¹³³.

A future international system in general agreement with such views would rely on civilizational groupings organized around a ‘non-imperialistic’ empire whose administration would transcend democratic party-political mechanisms. This is the vision for Europe painted more than half a century ago by Julius Evola—a main intellectual source for new traditionalists—when he theorized about ‘an empire in a true and organic sense’ which ‘was previously displayed in the European medieval world.’¹³⁴ ‘In this world,’ Evola continues,

¹²⁸ Stephen Deets, “The Hungarian Status Law and the Specter of Neo-medievalism in Europe,” *Ethnopolitics* 2–3 (2008).

¹²⁹ Hedley Bull, *The anarchical society: a study of order in world politics* (London: Macmillan, 1977).

¹³⁰ Richard Falk, “A ‘new medievalism?’” in *Contending images of world politics*, eds. Greg Fry and Jacinta O’Hagan (London: Macmillan, 2000), 108.

¹³¹ *Ibid.*, 112.

¹³² Gábor Vona, “Some thoughts on the creation of intellectual Eurasianism,” *Journal of Eurasian Affairs* 1 (2014).

¹³³ For similar conclusions drawn from a different analysis regarding Hungarian political discourse, see also Chris Moreh, “The Asianization of national fantasies in Hungary: A critical analysis of political discourse,” *International Journal of Cultural Studies* 3 (2016).

¹³⁴ Julius Evola, *Men Among the Ruins: Post-war Reflections of a Radical Traditionalist* (Rochester, VT: Inner Traditions, 2002), 277.

individual States have the character of partial organic units, gravitating around ... a principle of unity, authority, and sovereignty of a different nature from that which is proper to each particular State. But the principle of the Empire can have such a dignity only by transcending the political sphere in the strict sense, founding and legitimizing itself with an idea, a tradition, and a power that is also spiritual.¹³⁵

Discussing extreme imaginary worlds is, in my opinion, not unjustified. It enables us to look beyond the liberal democratic principles that dominate our thinking, and may also remind us of the fact that historically radical global political restructuring occurred during relatively short periods of turmoil, but on the back of long-term technological and economic processes. Discussing them in relation to changes such as those taking place in Hungarian citizenship law has a more modest justification, serving to show how they may indeed fit better in such imaginary worlds, and highlighting both the possibilities and dangers involved.

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¹³⁵ *Ibid.*, 277.

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