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## Legitimacy of Kin-State Politics: A Theoretical Approach

Laws that provide benefits to co-nationals abroad seem to become a staple in the legislation of numerous – mainly east European – countries. Not only the Hungarian Status Law,<sup>1</sup> the most prominent example, but also a considerable number of other bills passed in Slovakia,<sup>2</sup> Romania,<sup>3</sup> Russia<sup>4</sup> or Bulgaria<sup>5</sup> reflect the seemingly natural and unquestionable responsibility of a kin-state towards its kin-minority. There have been several publications explaining, favoring and questioning such benefit laws from widely varied perspectives.<sup>6</sup> My aim here is not to evaluate these benefit laws as “post-communist” or “post-modern” but, rather, to place them within a larger framework and explore their legitimacy.

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<sup>1</sup> Act on Hungarians living in neighbouring countries. 19 June 2001.

<sup>2</sup> Act on Expatriate Slovaks and changing and complementing some laws. 14 February 1997.

<sup>3</sup> Law regarding the support granted to the Romanian communities from all over the world. 15 July 1998.

<sup>4</sup> Federal Law on the State policy of the Russian Federation in respect of the compatriots abroad. March 1999.

<sup>5</sup> Law for the Bulgarians living outside the Republic of Bulgaria. 11 April 2000.

<sup>6</sup> For detailed analyses see: Osamu Ieda (editor in chief), Balázs Majtényi, Zoltán Kántor, Balázs Vizi, Iván Halász, Stephen Deets (editorial board): *Beyond Sovereignty: From Status Law to Transnational Citizenship?* Sapporo, 2006.

*Methodological background*

The Hungarian and other Status Laws are only one aspect of a kin-state politics that is based on the relationships between a state (kin-state) and “its” minority (kin-minority) abroad. In the search to legitimate kin-state politics, there are three different analytical levels: a theoretical, a legal and a political. First, the theoretical level focuses on the cultural bond between kin-state and kin-minority. If there were a morally justified reason to maintain the link between kin-state and kin-minority, the legitimate responsibility of the kin-state might generate a legal action. This leads us to the second aspect: the legal level. Thus, a positive theoretical response (i.e. there is a morally justified link between kin-state and kin-minority which is worth being maintained) might transform the relationships moral legitimacy into a legal legitimacy. But even in the case of a negative theoretical response, there might be existing international laws that explicitly or implicitly suggest the legal necessity of kin-state politics. Finally, the political legitimacy occurs within the structures of power and negotiation between the involved actors. The interdependency of the affected states (home-state, kin-state), their standing within the European political network and the countenance of European institutions have to be taken into consideration. Again, if kin-state politics are morally and/or legally justified, political efforts might be made to support these types of relationships. And even if kin-state politics is lacking any justification on the theoretical and legal level, there might be other politically motivated reasons that could provide a comprehensible ground as legitimacy.

Because of this, a causal relationship between the three levels cannot be established. Although moral and legal reasons might exist for both legal and political actions, this is not necessarily the case. A closer examination might show that legitimate justifications exist on one or two levels but not on the third. However, it is also possible to conclude that kin-state politics is illegitimate in regards to theoretical, legal and political positions. Since kin-state politics as a social phenomenon does exist and is highly controversial, it is important to see on which legitimate ground, if any, it stands.

Because it is the most complex and requires some space to be elaborated, I will limit my analyses to the theoretical level. First, I will sketch a definition of kin-state politics in general and point out those aspects

that will be most important within the analysis. After doing this, I will introduce the Multiculturalism Debate, which will serve as the frame for the remainder of my theoretical discussion. I have opted for this approach for the following reasons: first, the issue of justification and the range of minority rights are a central concern; second, the political framework is always a liberal democratic state; third, it aggregates different, sometimes contradictory (liberal and communitarian) positions that open many angles from which to view kin-state politics.

*Definition of kin-state politics:  
responsibility, integration, incorporation*

The basic component of kin-state politics is the relationship between a kin-state and its kin-minority. As there would be no such thing as kin-state politics, this relationship is the defining feature of kin-state politics. The more compelling and not so easily answered questions are: What kind of relationship exists between kin-states and kin-minorities? How is it manifested? What are the consequences? As a starting point, we can state that it is a relationship between a state (kin-state) and a group of persons who are not residents nor citizens of the respective state but do share some or all aspects of the state majority's national culture. In other words, national culture seems to be the shared object that generates the belief that the state's majority and these "groups" (kin-minority) belong together. Although the members of the kin-minority live in another or several different states (home-state) and are, thus, citizens of these states, they practice a different national culture than the home-state's majority. In short: the shared national culture between the kin-state and its kin-minorities is the basic foundation of kin-state politics. Kin-state politics is distinctive because of its extraterritoriality and a state's ties to non-citizens. Because of these issues, cultural bonds must be proved to be a legitimate justification for kin-state politics.

There are three types of kin-state politics. First, the concept of *national responsibility* simply states that due to a shared national culture a kin-state is responsible for the well-being of its kin-minorities abroad. In many cases, this responsibility is reflected in the constitution and/or foundations concerning financial benefits for the kin-minority. This type of kin-state politics is mainly symbolic and is occasionally referred to by parties, politicians and state authorities. As there is no legal result, this type

depends on the preferences of the parties in power. This politics aims to enable the minority to sustain its culture and to have an adequate option to compete with the majority for state goods in their home-state. The second type, *national integration*, considers the kin-minority as part of the kin-state's majority nation that has simply separated by state borders. The idea of the nation's unity underlies the assumption that the kin-minority has a right to participate in the national structures. This means that although the members of the kin-minority are residents and citizen of another state, they play a legitimate role in the national history because of their shared national culture. In order to guarantee their active participation, the state must help them secure legal instruments and measures. The visible outcomes of this integration are laws that grant (educational and financial) benefits. As a consequence of this, the kin-minority is accorded not only a place within the cultural nation but is also granted a special status within the state structure. These legal bonds and enforceable rights initiate forms of cultural and political integration. *National incorporation* is the third type of kin-state politics. It grants citizenship to members of the kin-minority regardless of their residence. Persons belonging to the kin-minority equipped with dual citizenship are considered full and equal members of the kin-state's cultural and political nation of the kin-state. This type of politics believes that there is no difference between the kin-state's majority and the kin-minority; thus, the kin-state is as responsible for the kin-minority as the home-state. This means that the kin minority is situated between two loyalties.

The three types are different in range and purpose. The politics of responsibility gives symbolic and financial support to maintain the culture within the environment of the home-state; the politics of integration provides a special status within the state structure and generates a stronger legal bond; finally, the politics of incorporation grants citizenships and offers the possibility of being an equal member of the kin-state nation. Having differentiated the types of kin-state politics, we should explore the legitimacy of each type separately. To do so, we should turn our attention to a theoretical analysis.

### *The theoretical framework: the Multiculturalism Debate*

The Multiculturalism Debate started within the framework of the North American academic forum in the late 1980s. What seemed to

be a new phase of the discussion between Liberals and Communitarians developed around the question of cultural accommodation in public institutions. A series of scholars, from both the liberal and the communitarian camps, emphasized culture, national identity or membership in a community as essential for individuals.<sup>7</sup> The common ground of “Multiculturalists” was a criticism of the original liberal theory of a neutral state. According to Kymlicka, the state is involved in a nation building process. It is a matter of “a legitimate support of a common language and thus of a sense of belonging to the social institutions that are designed in this language and promote the image that these institutions are open to everybody equally.”<sup>8</sup> A state’s constitution, the legislation and public institutions reflect more or less consciously the national culture and, therefore, cannot act in a neutral manner.

Conflict emerges in the case of cultural plurality: when not all inhabitants of a state’s territory belong to the same language or cultural group. Due to global migration and the persistence of national minorities, cultural diversity is rather the norm than the exception in most – but especially modern liberal industrial – countries. Basically, all liberal states have to find a means to accommodate minority cultures in a state structure that usually expresses majority culture. A simple non-discrimination principle is not a satisfactory way of addressing cultural minorities’ demands for “accommodation, recognition, and representation within the institutions of the larger society.”<sup>9</sup> Minorities are, because of their size, in an inferior position. In a majoritarian democracy, they will never have a proper chance to fulfill their needs within state structures. For Kymlicka, this structural deficit justifies the proposal of special minority rights and differentiated citizenship inasmuch as it provides a more effective means to secure more equal treatment between a state’s majority and minorities.<sup>10</sup>

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<sup>7</sup> Iris Marion Young: *Justice and the Politics of Difference*. Princeton, 1990; Yael Tamir: *Liberal Nationalism*. Princeton, 1993; Charles Taylor: *Multiculturalism and the Politics of Recognition*. Princeton, 1993; Jeff Spinner: *The Boundaries of Citizenship: Race, Ethnicity and Nationality in the Liberal State*. Baltimore, 1994; Will Kymlicka: *Multicultural Citizenship: A Liberal Theory of Minority Rights*. Oxford, 1995; David Miller: *On Nationality*. Oxford, 1995.

<sup>8</sup> Will Kymlicka: *Multikulturalismus und Demokratie: Über Minderheiten in Staaten und Nationen*. Hamburg, 1999. 28. [translation by the author]

<sup>9</sup> Will Kymlicka: *Politics in the Vernacular*. Oxford, 2001. 41.

<sup>10</sup> Kymlicka: *Multicultural Citizenship*

Since majority culture naturally penetrates the public sphere, new structures are needed to address the claims of those who do not share the majority culture.<sup>11</sup> Devolution, federalism, autonomy and even secession have been put forward in the literature.<sup>12</sup> The governments of East European countries, where the issue of national minorities is most prevalent, have refrained from pursuing such restructuring. That is, of course, no surprise. As I mentioned above, the majority practices a kind of nation-building through its state structures. Anchored and visible cultural differences in the public institutions would diminish the everyday accessibility of national unity. Cultural maintenance is, thus, one of the most important reasons for national conflict.

The kin-state as the third player can either help balance or cause further disruption in such nationalizing conflicts.<sup>13</sup> Politicians as well as some scholars have argued that the importance and maintenance of the cultural community legitimately justifies kin-state involvement. Although they hardly explicitly mention the Multiculturalism Debate, many arguments seem to be borrowed from it. In the following analysis, I will consider whether Multiculturalism Debate offers a legitimate argument for kin-state politics.

### *Kin-state politics from a multicultural point of view*

To address the point immediately, the Multiculturalism Debate is guided by the question of minority inclusion. How should minorities be incorporated into the structures and institutions of the state *where they live*? This question and its resultant discussion emphasize only one relationship: the kin-minority and the home-state relationship. In these reflections, the kin-state is unknown and unexplored as an actor in the process of cultural bargaining. To find statements concerning kin-state politics in these arguments, we have to look askew. I have distinguished

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<sup>11</sup> Multiculturalists draw clear distinctions between the accommodation of immigrants and that of national minorities/native people. Kymlicka argues that immigrants and national minorities have different interests originating from their very different situations; thus, they deserve different rights. Since cultural plurality in East European countries is mainly owed to national minorities, I will not focus on the stream of theory that deals with the accommodation of immigrants.

<sup>12</sup> Ulrich Schneckener: *Auswege aus dem Bürgerkrieg*. Frankfurt, 2002.

<sup>13</sup> Rogers Brubaker: *Nationalism Reframed: Nationhood and the National Question in the New Europe*. Cambridge, 1996.

three different types of kin-state politics that operate using different instruments: national responsibility, national integration, and national incorporation. National responsibility admits a kind of moral and financial support to maintain minority culture. National integration accords through laws a special status within the kin-state's legislature. National incorporation grants citizenship to kin-minority and equates them with rest of the kin-state citizens.

The key aspects are: responsibility towards the national culture, special status accorded to foreigners due to the same national culture, and citizenship as a legal relationship between the state and the individual. In order to find a legitimate argument in favor of or against kin-politics, we must deal with passages concerning these aspects. So, we can formulate the following three concepts: (1) cultural identity and the attitude of the state; (2) group rights and positive discrimination; (3) citizenship and state boundaries. In exploring the various aspects of these concepts, we might be able to generate a legitimate justification for kin-state politics.

### *1. Cultural identity and the attitude of the state*

When looking at the relationship between individual, community and the state, the boom of social theses that stress the desire of cultural accommodation attest a strong interest in the context and the constitution of the self. Non-egalitarians (e.g. Raz, Walzer)<sup>14</sup> challenge egalitarian theorists' concepts of justice (e.g. Rawls, Dworkin)<sup>15</sup> by arguing that the individual constitutes himself/herself only within a social context. Justice does not require equal treatment for individuals but rather considers and accepts the diversity of different contexts.

Multiculturalists see the Self embedded in a historical and ethical community's social practices. These cultural patterns set the normative framework of each member of the community and thus act constitutively upon individual identity. The individual seen in this way is intersubjectively dependent on the social environment and not, as in Rawls "original position," ethically neutral and atomistic. In other words: the multicultural perspective believes that a community's shared ethics

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<sup>14</sup> Joseph Raz: *The Morality of Freedom*. Oxford, 1986; Michael Walzer: *Sphären der Gerechtigkeit. Ein Plädoyer für Pluralität und Gleichheit*. Frankfurt, 1992.

<sup>15</sup> John Rawls: *A Theory of Justice*. Oxford, 1972; Ronald Dworkin: *A Matter of Principle*. London 1985.

generate an individual's autonomy. The system of cultural values creates identification, classification and meaning. Cultural identity as a system of values and explications is, therefore, a necessity to define ethical norms.<sup>16</sup> The cultural context is not only compatible with individual freedom; it is a precondition for individual self-determination. The right to individual self-determination implies the right to cultural membership. This is a right of the individuals "to live within the culture of their choice, to decide on their social affiliations, to recreate the culture of the community they belong to, and to redefine its borders."<sup>17</sup>

The liberal counter-argument agrees that culture might play an essential part in the identification process but objects because of the multiplicity of cultures (the culture of a chess club, the culture of opera-lovers, the culture of the working class, etc.). Because every individual is a member of several different cultural groups, the structure of the state cannot explicitly and equally accommodate all. However, according to the Multicultural representatives, national culture is different than simple culture. National culture is an environment – consisting of shared symbols, values and beliefs about a common past and future – that intends and has the ability to influence an individual's interpretation of the world, to formulate necessary explanation patterns and to, thus, create cohesion for people who have a shared concept of the world. In this sense, a national community is a strong cultural community and the national culture an encompassing conceptual world.<sup>18</sup> The cultural differences of a chess club, an opera lover or a social class can all be accommodated within the encompassing (majority) national culture. A different encompassing national culture, however, cannot be fitted into another one.

If we agree with the Multiculturalists that national culture is essential for the constitution of individual identity and is, thus, worth protecting, we are forced to ask: Whose responsibility is it? First of all, responsibility lies with the members of the cultural group in question. If the national minority resists assimilation tendencies and is highly aware of its culture, it will take great effort to continue its heritage; if there is no

<sup>16</sup> Avishai Margalit & Joseph Raz: *National Self-Determination*. In Will Kymlicka (ed.): *The Rights of Minority Cultures*. Oxford, 1995. 79–92.

<sup>17</sup> Tamir, 8.

<sup>18</sup> George Schöpflin: *Nations, Identity, Power. The New Politics of Europe*. London, 2000.



group interest to culturally differentiate itself from the majority, there is no reason for the liberal state to insist on differential treatment. Further, if we agree that the encompassing character of national culture requires at least the possibility to accommodate minorities and realize equal ethical treatment within state structures we have to ask which other rights might be constricted by this politics. The answer depends on the institutionalization of the accommodation.

If the possibility of individual choice and the ability to execute this choice is provided, there should not be an individual right that is constrained as long as no other rights have been violated. For example, if a member of a national minority decides to send its children to a school where the lessons are taught in the minority's language, there should be a school that is easily accessible where classes are held in the minority language. But what happens if the member of the national minority decides to enroll its children in a school where the majority language and the culture are taught? The person might be of the opinion that it is better for the future of the children to speak the majority language and to know the majority culture because it will ensure their future compatibility and it is always possible to practice the minority culture in the private sphere.

This is the point where liberal and communitarian Multiculturalists disagree. Charles Taylor, for example, proposed to Canada that it should send the children of the francophone population to French schools in order to secure the survival of Canada's French culture.<sup>19</sup> To ensure that the right to cultural membership can be exercised, other less-essential rights (like the right of parents to decide about the children's education) have to be subordinated. From the Communitarian point of view cultural survival can be thus more important than individual decision. This proposition rests upon the assumption that (1) minorities place the most value on the practice and survival of their cultures; (2) the responsibility of ensuring the practice and the maintenance of both majority and minority cultures – even if constraining other rights in the process – falls to the state; (3) individuals do not consider cultural retreat or change a viable option. Although all three assumptions can be questioned from a liberal point of view, the communitarian perspective makes legitimate

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<sup>19</sup> Taylor, 52.

claims about the state's responsibility for the maintenance and survival of the cultures *within its own borders*.

But how can the responsibility of a state towards the minority of another state be justified? The first implication is, of course, the shared national culture. Several outcomes are then possible: (1) there might be a situation in which there is no responsibility at the level of the state. This is either because the minority is able to sustain its culture independently of the kin-state and/or because the home-state is the first institution in charge of its citizens' well-being and, thus, there is no legitimate need for kin-state activity. (2) It could be argued that a kin-state is in a far better position to support its minority. Although not all requirements could be taken up by the kin-state (e.g. the accommodation in the public administration), the kin-state understands the cultural patterns of the minority better and can, therefore, offer more valuable assistance in the creation of cultural and educational institutions. This would resemble a transfer of sovereign rights and would be approved by the home-state. In this situation, kin-state activity would exist upon request. (3) The most difficult question is whether and what kind of legitimacy exists when the minority wishes for kin-state activity but the home-state does not.

First, it should be explained that the relationship between kin-minorities and kin-states is a necessity as a means of cultural reproduction. National culture could be understood as a shared belief in a common past and future stand or, more simply, a common national history. The minority is thus a part of the national "faith." But this explanation only addresses the connection between the kin-minority and the majority in the kin-state. That is, it addresses the idea of the nation and *not the state*. Basically, a nation does not need a state to persist, to practice its culture, or to think of itself as a nation. Only if the state plays a core role in identification (like achieving an independent state after the national revival) is the assumption that the kin-state plays a necessary role in the further cultural development of the kin-minority justified.

However, the home-state will see its national stability endangered by the strengthening of bonds between the kin-state and kin-minority. The home-state could either accommodate the kin-minority in order not to evoke discontentment and secessionist movements; it could also pursue a strictly liberal minority politics and disregard institutional accommodation. Either way the home-state cannot prevent the kin-minority and

the kin-state from emphasizing their shared culture. As long as there is no action on the side of the kin-state that would violate the sovereign rights of the home-state, there is a possibility of kin-state involvement. Acknowledgment of responsibility, financial assistance for cultural practices and regular contact can be legitimated on the ground of a shared national culture that requires a continuous reference to/contact with the kin-state. From this point of view, national responsibility is justified.

## *2. Group rights and positive discrimination*

Taking this argument one step further, the necessary kin-state responsibility could indicate that special rights that codify this responsibility are justified as well. Since the responsibility is directed to the kin-minority as a national group, the laws address the kin-minority as a group as well. Two questions arise from this: Are there such things as group rights that can be legitimately accorded to minorities? Can they be addressed to non-citizens?

The rights of cultural groups have received much attention and have been well elaborated within the Multiculturalism Debate. Van Dyke argued that the liberal conception as an individual conception was too limited and that the two tiered relationship between the state and the individual is not sufficient for grasping the complexity of group claims.<sup>20</sup> The basic question is whether national minorities should be considered as moral units and whether they should be accorded legal status and rights. There are basically three positions that are prominent in the group rights' discussion: (1) only individuals are moral agents and, therefore, only individuals can bear any (moral or legal) rights; (2) since some rights can only be exercised collectively, there are special rights for individuals as members of a group; (3) there are group rights that are intrinsic to the group as such and cannot be derived from individual rights.

The most important argument for opponents of group rights is that the individual is the ultimate agent of action. As moral rights can only be attached to this type of agent, group rights cannot exist.<sup>21</sup> Since every moral and legal right is an individual right, all seemingly collective

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<sup>20</sup> Vernon Van Dyke: The Individual, the State, and Ethnic Communities in Political Theory. *World Politics* Vol. 29, Nr. 3, 1977. 343–369.

<sup>21</sup> Adeno Addis: Individualism, Communitarianism, and the Rights of Ethnic Minorities. *Notre Dame Law Review*, Vol. 67, Nr. 3, 1991. 615–676.

rights (like the right to associate) are in fact individual rights. Furthermore, individual rights are appropriate and sufficient to protect cultural groups; therefore, there is no need to endow members of the communities with rights other than those belonging to the individual. Besides, group rights could have detrimental consequences. Group rights would create a category of rights distinct from and possibly in violation of individual rights.<sup>22</sup> In short, the individualist position sees no necessity, no desirability and primarily no moral ground for group rights.

Since Multiculturalists see the individual as always situated within a particular tradition, occupying certain roles and having commitments, they argue that one cannot have a right as an abstract individual. Rather, the individual has a right as a member of a particular group within a given context. With the community being the premise of the moral individual, communities can be units of moral concern and can have moral rights. However, a group's interest represents the accumulation of the individual interests within the group. Because of this, all the rights that are meant to protect the interests of the group are actually individual rights. The right to cultural membership is a right attached to the individual members of the group and not to the group as such.<sup>23</sup> The right to cultural membership, therefore, can be understood as a special individual right that because it is not of the moral weight of other individual rights cannot be violate other individual rights.

The advocates of group rights state that in addition to individual rights there are certain rights that cannot be ascribed as individual rights. The right to secession or the right to self-determination are not translatable into individual rights and can only be understood as inherent group rights. Groups have other claims than the individual; thus, individual human rights are insufficient to face the needs of a group. Discrimination or violation against a member of a particular group is not a special act against an individual, but it is a general attitude against and illustration of a group's difference. Anti-discrimination laws that protect individuals are, therefore, not enough. The rights of a cultural group have to be understood as moral rights attached to a group as such, not to each individual of the group.<sup>24</sup>

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<sup>22</sup> Michael Hartney: Some Confusions Concerning Collective Rights. *Canadian Journal of Law and Jurisprudence*, Vol. 4, Nr. 2, 1991. 293–314.

<sup>23</sup> Jan Narveson: Collective Rights? *Canadian Journal of Law and Jurisprudence*, Vol. 4, Nr. 2, 1991. 329–345.

<sup>24</sup> Addis, op.cit.

Since groups are seen as moral units, it is justifiable that they have moral rights that exist beside moral individual rights.

Within the Multiculturalism Debate, not all Multiculturalists agree with the notion of group rights. While the communitarian theorists support the idea of rights granted to groups as such, liberal Multiculturalists accept only group specific rights that are attached to individuals. This distinction between group rights and group specific (individual) rights is quite important when considering the legislation in kin-state politics. The question is: should laws concerning the kin-minority be addressed to members of the kin-minority or to the kin-minority as such? As we have seen from the multicultural point of view, both consignees of legal rights would be possible. But if the individual or group rights are addressed to non-citizens, are these laws still justified? Any bill that addresses the concern of the kin-minority accords them a special status within the national legislation; because of this, I will generally refer to these laws as *status laws*. Since the rights are addressed to the minority as such and not to the individual member of the minority, status laws tend to generate collective rights.<sup>25</sup> If we accept that the cultural community is (a) a necessary precondition for individual well-being (b) has a moral worth because of this (c) should be protected moral unit and (d) should be provided legal rights in order to ensure this status, the following questions should be addressed: (1) Who is in charge of addressing the community and providing them legal rights? (2) How far can such legal rights go? (3) Do such laws discriminate against other groups?

First and foremost, it is the home-state that is responsible for the well-being of its citizens, i.e. also people who are kin-minorities. Knowing this, which right(s) could a kin-state legitimately acquire in order to pass status laws that address and affect the citizens of another state? The argument has to proceed as previously mentioned: if the kin-minority and the home-state agree to the laws terms, a kin-state is in a better position to protect its kin-minority by passing status laws because of a shared culture. But why should a cultural minority receive better protection from the laws of a neighbor state than by the laws of its own state? The reason can only be found in the cultural realm. Since members of the kin-minority are citizens of the home-state and as such are

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<sup>25</sup> Otherwise individuals could enjoy the rights independently from the group, e.g. when they immigrate into a third country.

included in the political and economic administration, there is no legitimate space to legislate for the kin-minority as political or economic subjects within the kin-state. Therefore, the question of “status” is limited to cultural aspects. Being viewed as a part of the cultural nation, a status law can only be accepted if it is proven that legal action is desired by the kin-minority and the home-state and if it is necessary to maintain the well-being of the group. Checking whether the first condition is met is quite simple; the second is more difficult. Why should legal – and not moral – protection by the kin-state be necessary for the cultural maintenance of the kin-minority?

Status laws may provide recoverable claims that are institutionalized. This doubtlessly provides a stronger and more durable bond between the kin-state and the kin-minority and is more independent of the political preferences of the government in power than symbolic representations of this responsibility. Moreover, the kin-minority becomes a legitimate part of the kin-state’s cultural and political nation with special rights and duties. The reason for this bond being legitimate only within a cultural framework is mainly due to the issue of positive discrimination towards the home/kin-state’s majority population. Why should the state lay out its citizens’ taxes for supporting the economic situation of foreign citizens? The argument that a deplorable condition exists for its national (minority) culture is not tenable. This is because the kin-state could finance directly cultural facilities like schools, theatres and educational centers without the need of a legislative network. Furthermore, the justification can be applied to the minorities residing within the kin-state. Why should a national minority within the kin-state contribute to the financial well-being of another state’s citizen with whom it does not even share the same culture?

Status laws as permanent collective rights can only be justified if several conditions are met: (1) limitation of the content to cultural aspects; (2) authorization through the home-state (3) no discriminatory effects (other than cultural) against the home/kin-state’s other citizen. Thus the legitimizing ground for national integration is considerably narrower than the one for national responsibility.

### 3. *Citizenship and state boundaries*

The notion of citizenship is historically tied to the idea of clearly delimited and relatively autonomous nation-states.<sup>26</sup> It has been the visible administrative link between the state and the individuals living in the state. It symbolizes a treaty about the rights and duties of the state and the citizens. However, today this model faces challenges from both outside and from within. On the one hand, the forces of global economic integration and supranational governance entail a higher mobility of individuals, a looser connection to their states, and a more difficult integration within the social administration of the state. On the other hand, cultural pluralism within the state requires the accommodation of different cultural, social and political identities. Thus, modern pluralistic states have difficulties addressing the individuals who are involved within their structures as strictly citizens.

Citizenship contains a great deal more than just a legal membership. According to Galston, a proponent of responsible citizenship, it requires four types of civic virtues: general virtues like law-abidingness and loyalty; social virtues like open-mindedness; economic virtues like a work ethic and the adaptability to economic change; political virtues like the willingness to engage in public discourse.<sup>27</sup> Citizenship is, therefore, actually not a piece of legislation within a bureaucratic state but is rather a means to manage the relationships between citizens. It defines the relationships and responsibilities among them. Because every citizen is endowed with equal rights, granting citizenship means allowing every citizen an equal share of state-issued rights and benefits.

Within kin-state politics, the following question arises: why should a group of citizens of one state be eligible to obtain the citizenship of another state without being residents? Again, it should be proved that shared national culture is enough to legitimize citizenship or that citizenship is needed to practice shared culture. Although we have seen that citizenship can be regarded as more than just a mere legal link, it is questionable whether it implies cultural aspects as well. Citizenship surely reflects a culture of political and social responsibility. The political and social structures as well as any reallocation measures would otherwise

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<sup>26</sup> Ellie Vasta: *Citizenship, Community and Democracy*. London, 2000. vii.

<sup>27</sup> William Galston: *Liberal purposes: goods, virtues and diversity in the liberal state*. Cambridge, 1991. 221–224.

not be justifiable and sustainable. If cultural aspects played a decisive role in granting citizenship, there would be concurrent exclusionary and inclusionary effects. On the one hand, inhabitants of the kin-state who do not share the majority's culture would be deprived from citizenship rights. On the other hand, the kin-minority would be included in the kin-state. Since the first outcome would strongly discriminate, it is unquestionable for liberal democracies.

However, kin-state politics point out that granting citizenship to the kin-minority would by no means imply the deprivation of citizenship from residents within the kin-state. Rather, the issuing of dual citizenship or some kind of "fuzzy citizenship"<sup>28</sup> has come to the fore. Why should a group of people not have dual citizenship, with which they can continue to be politically loyal to the home-state but feel a cultural loyalty to the kin-state? The arguments against a non-equal citizenship regime can be summed up as follows:<sup>29</sup> (1) Status: Differentiated or dual citizenship may establish inequality of civil, political and social rights. Having dual citizenship may entail that the kin-minority could benefit from two social systems and job markets that one-passport citizens can not. With this, the original idea of the notion of citizenship – equal allocation of the state resources – is turned upside down. (2) Identity: a consequence of differentiated or dual citizenship can be the fragmentation of identity. The cultural and political loyalty of the kin-minority cannot be neatly separated. On the one hand, residing as a citizen in the home-state implies a political commitment as well as cultural interaction with the majority. Additionally, obtaining a citizenship from the kin-state brings about a political involvement as well. Because of this, the kin-minority has to face a double burden by struggling with cultural and political loyalties towards two states at the same time. (3) Social cohesion: having equal loyalties towards another state could be interpreted as indifference against a common civic identity, which is necessary to legitimize the viability of the state. Through differentiated or double citizen-

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<sup>28</sup> Brigid Fowler: Fuzzing Citizenship, Nationalising Political Space: A Framework for Interpreting the Hungarian 'Status Law' as a New Form of Kin-state Policy in Central and Eastern Europe. In Kántor et al (eds.): *The Hungarian Status Law: Nation Building and/or Minority Protection*, 2004. 177–238.

<sup>29</sup> Will Kymlicka & Wayne Norman: *Citizenship in Diverse Societies*. Oxford, 2000. 31–40.



ship, particulate tendencies may be strengthened and contribute to a lack of confidence among citizens.

Culturally motivated citizenship politics is likely to have negative effects on a given political community and cannot serve as a legitimate argument for granting citizenship to kin-minorities. One could argue that true political and social responsibility is only possible on the grounds of a shared national culture.<sup>30</sup> However, there is no reason why culturally different people should be unable to feel socially responsible for each other. If this was truly impossible, there would be no legitimate argument for the kin-minority to remain in the home-state and this discussion about kin-state politics would not be taking place. The legitimate reason for dual-citizenship is that maintenance of cultural patterns necessitates it. Citizenship is still very much a political rather than a cultural instrument, and the benefits granted on the cultural grounds are very little, if any. Granting citizenship is, first of all, an incorporation of an individual into a political unit. The culturally relevant advantages – like connection with the kin-state through educational and cultural means – can all be obtained with the first and the second type of kin-state politics. From the multicultural perspective, no argument justifies dual citizenship.

There is no objection if a member of the kin-minority becomes a citizen of the kin-state by simply applying for citizenship. However, this is an individual act that does not require approval, is only dependent on the national citizenship, and does not involve a general collective right of the kin-minority to receive citizenship within the kin-state. This indicates that a decisive factor is whether citizenship is accorded on individual or collective grounds. Only the former is justified, but as this scenario involves an application of a foreign citizen regardless of its culture, there is no relation to kin-state politics.

### *Conclusion*

Within the Multiculturalism Debate, I have tried to find a legitimate justification for kin-state politics. I classified three types of kin-state politics: national responsibility (symbolic acknowledgment and

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<sup>30</sup> Miller, *op. cit.*

financial help), national integration (special status in the legislation), and national incorporation (granting citizenship on a cultural base). I analyzed the theoretical approaches and referenced the importance of the national culture, collective rights/positive discrimination and citizenship. According to these arguments, I was able to evaluate the three types of kin-state politics from the multicultural point of view. National responsibility is justified because of a kin-minority's possible desire for a shared national culture. National integration that occurs on a collective level is justifiable only when the content is limited to culture and both kin-minority and the home-state agree to it. Finally, national incorporation at a collective level is not justified in any degree. Kin-state politics are, therefore, legitimate when they take responsibility and – under certain circumstances – grant status.

Since my analysis has limited itself to the theoretical level, it is possible that legitimacy exists at the legal and political levels. Actually, international obligations or political constraints may provide better arguments for kin-state activity. However, because of the restricted moral justification for kin-state politics, the legitimacy of legal and political arguments could be read as an overall legitimacy. A state's politics should always be (re)insured by strong moral arguments.

It is important to point out two aspects. First, culture matters most and is the strongest legitimating argument. One could certainly – and rightly – ask: what is culture? Or, what is *only* culture? Is the financing of minority schools not actually a political issue about competing for cultural resources? Is language and education not actually the most hard-fought political issue in culturally pluralistic countries? Second, because of the extraterritorial (side)effects, kin-state politics is limited by and proportional to the strength the home-state's objection. Therefore, an agreement between kin-state and home state is not only the best way to enlarge kin-state politics but also to improve minority rights within the home-state. The last question is whether the kin-state can make claims regarding the competency of its kin-minority in cases where these issue receives little attention from the home-state. I doubt this. In such a case, I would rather see the competency at the European and/or international level. In the end, is everyday diplomacy finally the only way of furthering minority rights?