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## Idee und Geschichte der Staatsangehörigkeit



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„Überhaupt ist es mit dem Nationalhaß ein eigen Ding. Auf den untersten Stufen der Kultur werden Sie ihn immer am stärksten und heftigsten finden. Es gibt aber eine Stufe, wo er ganz verschwindet und wo man gewissermaßen über den Nationen steht und man ein Glück und Wehe eines Nachbarvolkes empfindet, als wäre es dem eigenen begegnet.“

Goethe

„Das Individuum (bildet) das beseelte Instrument aller Rassen: der Familie, des Standes, des Volkes, der Menschheit.“ J. C. Bluntschli, „Rasse und Individuum“, in J. C. Bluntschli und Brater, *Staats-Wörterbuch*, Vol. 8, 1864, p. 475.

*Conceptions of the self, the person, the individual, of human nature* are seemingly natural and self-evident building blocks of which societies are made. Different societies have been shown, however, to have held very diverse notions of personhood which are closely linked with its social organization and history. Social anthropologists have engaged in analysing these conceptions in pre-industrial societies'. Modern European history is generally interpreted as the period of the individual's emancipation from traditional bonds of personal and political subjection. But the notion of the individual, as itself a social and historical artifact, has seldom been scrutinized because attention has focused predominantly on changing social, economic and political conditions and relationships. Modern individualism is acknowledged as a peculiar historical phenom-

enon but neither is there agreement on its origins nor are its general socio-structural implications always quite clear<sup>5</sup>.

It would be quite unrealistic to conceive of an inquiry into the notions of the person and the individual in the modern Western world in general terms. Some temporal and thematic choices need to be made from the start. The eighteenth and nineteenth centuries appear to be the critical moment when the conceptions of the individual and of human nature as we still know them today were shaped. In addition, conceptualizations are more easily apprehended through the concrete socio-political effects they generate. The modern notion of individual bears on personal identity and civic and political rights which may serve as points of departure. Because society is, moreover, an ongoing process social formations develop principles (such as, for example, a kinship system, civil law and nationality rules) which operate to organize the reproduction of socio-political relationships and boundaries through time. These principles of reproduction are equally informed by the particular concept of personhood that prevails.

My thesis is that the idea of the free, self-determining, autonomous and responsible individual began to acquire its modern meaning in the Enlightenment along with a conceptualization of social inequalities in natural terms in response to the challenge individual freedom and equality posed. This apparent paradox was consolidated in the following century. The age of the French and the American revolutions not only proclaimed the ideas of freedom, equality and tolerance but also saw the birth of racial classifications and hierarchies. The crucial issue was how to reconcile freedom and equality of all men with perceived inequalities. Racial classifications from the start collapsed phenotypical and cultural and social traits and were applied not only to the "savages" abroad but also to differences at home<sup>3</sup>.

Developing scientific naturalism in the nineteenth century provided these ideas with a pseudo-scientific basis as exemplified in such doctrines as Social-Darwinism, Spencerism and Lamarckism, eugenics and more recently socio-biology<sup>4</sup>. Striking in the nineteenth century debate over the place of man in nature is, in effect, the deep and persistent tension between, on the one hand, man's quest to conquer and control nature and, on the other, the tendency to naturalize social man. Developing bourgeois society espoused an ethos of equal opportunities for all men born equal and free but generated growing social inequalities. If the self-determining individual by his social inferiority seemed to prove incapable of making the most of the opportunities society appeared to offer him, this must then be due to some essential, inherent, natural defect which in addition was hereditary. He himself, or better still, his genetic endowment

rather than society was to be blamed for this which was an effective way of obscuring the socioeconomic roots of inferiority. The result was a socio-political and cultural elitism grounded in theories of biological class superiority. I would argue that this tension between a notion of the individual as self-determining but at the same time determined by his nature is not a remnant of the past but inherent to class society and becomes especially clear at times of socio-political polarization.

I have chosen for a start to investigate two aspects of personhood as they developed in the eighteenth and nineteenth century, namely the ideas of parenthood and those of nationality and citizenship formulated in the context of the building of the modern nation-states. These two conceptions only in appearance pertain to two separate and distinct spheres of social life, that is, to the public as opposed to the private realm for both are informed by the same contradictory conception of the individual.

Social anthropologists have demonstrated that kinship systems, notions of parenthood and descent are cultural constructs rather than reflecting natural facts. Western society is no exception in this respect. The doctrines of biological class superiority, on account of their naturalist base, reinforced a notion of individualized biological parenthood which finds expression, for example, in our understanding of the parent-child bond as a "blood-tie", in popular prejudices with regard to adoption, in incest prohibitions, in our laws of filiation which are bilateral and last but not least in an image of women as by their biology destined to motherhood and domesticity. If social position expressed genetic endowment, then for those claiming social preeminence class endogamy and the control of women's reproductive capacity was crucial to ensure this preeminence'.

The idea of nationality (*Staatsangehörigkeit*, the condition of *citoyen*) is a recent one<sup>6</sup>. It also has its roots in the Enlightenment, in the notion of individual freedom which inspired the struggle for popular sovereignty in the French Revolution. The French Revolution gave birth to the idea of the sovereign nation-state founded on a contract between consenting individuals in an act of free will. This notion of the sovereign nation-state contains two elements, namely a new concept of the political community and one regarding the conditions of membership and thus entitlement to the political rights of citizenship. Of the three constitutive elements of the modern state, a territory, a government and a people, its citizenry is perhaps the most important for without a people there is no political organization nor is land of any use. Nationality laws serve to endow a state with a people by establishing certain criteria which differentiate nationals from aliens. In a sense, then, nationality laws ful-

fill a bounding function analogous to that of kinship systems in preindustrial societies.

Almost at once, however, two contrasting doctrines emerged on the "nature" of nationality: the conservative notion which endowed nationality with an almost ontological quality making it dependent on supposed common racial-cultural traits as the foundation of the *Kultur-nation*, and the liberal idea which based nationality on the people's active consent giving rise to the *Staatsnation*<sup>7</sup>. But although these doctrines seemed to be rooted in the diverse national traditions and political experience respectively of Germany and France, nationality came to be generally conceived throughout Europe in almost "natural" terms as the idea "of the nation and the nation-state as the *ideal, natural* or *normal* form of international political organization, as the focus of men's loyalties" spread<sup>8</sup>. In the course of the nineteenth century, nationality, as it were, became almost second nature to the modern citizen.

The nationality laws formulated in Europe at the time reveal a similar trend. In principle a person could acquire nationality by virtue of a so-called "tie of blood" (*jus sanguinis*) or through birth in a territory (*jus soli*) the former being potentially more restrictive. In the course of the century as nationality became an independent object for legislation a shift occurred from birth in the country to descent from a male national as the defining principle of nationality. "Naturalization" (note the term!) was also a possibility but could be refused. Women were denied independent nationality in two respects. When nationals of different countries married, women acquired the nationality of their husbands and they could not transmit their nationality to children except if these were illegitimate<sup>9</sup>. Women's dependent nationality was justified by the principle of unity of the family in which the husband was the head. I would argue, however, that both should be seen as the result of prevailing notions of society and the individual within it. The priority given to descent as the defining criterion of nationality contradicts the modern notion of the state composed of free and self-determining individuals for it made citizenship a matter not of choice and convention but of birth endowed with legal effects.

## Notes

1 M. Carrithers, S. Collins and S. Lukes (eds): *The Category of the Person: Anthropology, Philosophy, History*. Cambridge: Cambridge Univ. Press, 1985.

2 L. Dumont, "A modified view of our origins: the Christian beginnings of modern individualism", in: M. Carrithers, S. Collins and S. Lukes (eds), op. cit., pp. 93-122.

- 3 L. Poliakov, C. Delacampagne and P. Girard, *Über den Rassismus: Sechzehn Kapitel zur Anatomie, Geschichte and Deutung des Rassenwahns*. Frankfurt a. M., 1984 (1st ed. 1976), p. 84: Voltaire is a case in point, he extended his disdain for the "savages" also to the French peasants and the urban proletariat. Cf. also W. Conze, "Rasse", in: O. Brunner, W. Conze, R. Kosellek, *Geschichtliche Grundbegriffe*, Vol. 5, Stuttgart, 1984. It should be noted that racism does not require real visible phenotypical differences to exist, as the persecution of the Jews in Germany has tragically made clear; also, if phenotype is seen to explain cultural differences, so are cultural differences attributed to phenotypical, racial, that is natural differences. And difference is taken as the mark of inferiority.
- 4 R. Young, "The Historiographic and Ideological Contexts of the Nineteenth Century Debate on Man's Place in Nature", in: M. Teich and R. Young (eds), *Changing Perspectives in the History of Science*, London, 1973.
- 5 V. Stolcke, "Old Values, New Reproductive Technologies: The Quest for Fatherhood", colloquium presented at the Wissenschaftskolleg zu Berlin, March 1987.
- 6 V. Stolcke. "The Nature of Nationality", paper presented at the Workshop on "Gender in the State: Women's Needs and State Responses" held at the Wissenschaftskolleg in June 1987.
- 7 H. Kohn, *The Idea of Nationalism. A Study in its Origins and Background*, New York, 1948, p. 299
- 8 E. Kamenka, "Political Nationalism — The Evolution of the Idea", in: E. Kamenka (ed), *Nationalism: The Evolution of the Idea*, New York, 1976, p. 6.
- 9 In France domicile prevailed as the criterion until 1889 when it was replaced by *jus sanguinis*. The first separate nationality law was, however, enacted by Prussia in 1842. Until then "a Prussian was everyone who felt the desire to be Prussian"; thereafter, however, a person acquired the status of Prussian subject by descent, by legitimation, by naturalisation and in the case of women by marrying a Prussian subject. In England the development was somewhat different influenced by the problem of dealing with its vast colonies. Note, however, that at present European nationality laws once more give greater growing to descent with the clear aim of excluding so-called non-European populations. Note, however, that the new American republics adopted *jus soli* from the beginning. The aim was to incorporate as nationals the children of European immigrants while excluding, however, the native populations that still remained who as a rule were denied full citizen rights.