

# RELIGIOUS PLURALISM AND HUMAN RIGHTS IN EUROPE: WHERE TO DRAW THE LINE?

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(Editors)



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# GLOBAL CITIZENSHIP AND HUMAN RIGHTS: FROM MUSLIMS IN EUROPE TO EUROPEAN MUSLIMS

ABDULLAHI AHMED AN-NA'IM\*

## 1 INTRODUCTION

My objective in this lecture is to link two enlightened and humane ideas of our time, human rights and citizenship, in order to invite scholars, opinion leaders and the general public to explore ways in which the synergy and mutual support of these two concepts can contribute to protecting human dignity and social justice at home and abroad. The main premise of my argument is that the universality of human rights assumes or presupposes the possibility of 'global citizenship' as the basis of entitlement to rights and the ability to enforce them. Despite their different antecedents in the intellectual and political histories of various societies, the concepts of citizenship and fundamental rights have also been joined in mutual support and synergy in the development of the human rights paradigm. But I should also note from the outset that I am not only concerned with substantiating this theoretical connection, but also with the policy consequences of this linkage. In other words, I am committed to scholarship for social change, which requires rigorous scholarly standards because that is necessary for social policy. As Kurt Lewin rightly said, 'there is nothing so practical as a good theory.'<sup>1</sup> This does not only mean that practice should be guided by good theory, but also that good theory should be practical. I am therefore concerned with the practical quality of the theory as I am proposing as well as its scholarly rigour and cohesion.

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<sup>1</sup> K. LEWIN, *Field Theory in Social Science: Selected Theoretical Papers* (New York: Harper & Brothers Publishers, 1951), 169.

To begin with a general statement of my thesis, the idea of global citizenship as the basis of universality of human rights is helpful not only for clarifying the meaning and implications of national citizenship, but also for supporting human rights claims by non-citizens. Since human rights are due to all human beings by virtue of their humanity, enjoyment of these rights should not be limited to the citizens of the state where a person happens to be. In addition to this human rights framework for rethinking the nature of citizenship as simultaneously national and global, the proposed approach is also supported by good pragmatic reasons for proposing an overlapping conception of global and national citizenship at the present historical moment. As explained later, there is an emerging strong convergence of opinion and developments around the basic idea of global citizenship to complement national citizenship, despite disagreement regarding precise definitions, feasibility and strategies for realising that shared vision. There are also sound policy reasons for the proposed approach, such as the dependency of European economies on migrant labour and consequent need for their social accommodation, including provision of education, health and other services, which can be appreciated without reference to human rights principles as such.

This does not mean abolishing all legal and political distinctions between citizens and non-citizens of a state, which are indeed necessary and justified from a human rights' point of view.<sup>2</sup> It is already established that the universality of human rights requires certain minimum standards in the treatment of non-citizens by the authorities of the state, regardless of their legal status. That is, the idea of universality guarantees human rights to every person, everywhere all the time, whatever their status may be, whether he or she is in a country legally or illegally, lawfully subject to deportation or not. That does not eliminate the need to consider the rationale and implications of distinctions among citizens and non-citizens, as well as among different categories of non-citizens, in relation to particular claims of rights. But such determinations should not be based on broad categories of civil and political rights versus economic, social and cultural rights because that is neither an accurate classification since each right can contain both elements, nor can granting or denying each right be justified in relation to all groups of persons. In other words, each right should be considered in relation to each group of claimants, instead of lumping together different rights or groups of claimants.

For example, human rights such as protection against torture or inhuman degrading treatment or punishment and the requirement of fair trial and due process of law must be secured or should be secured on a universal basis. In contrast, the right to vote or be elected to public office are clearly due only to citizens, though limited voting rights may be accorded to long-term residents of a

<sup>2</sup> The continuity of this distinction will be indicated in this lecture by the term 'national citizenship' as a legal and political quality of being a citizen of a specific state, as distinguished from the broader concept of regional or global citizenship that I am trying to develop here.

country or municipality in proportion to their contribution to the well-being of the community. It is also possible to justify a higher level of entitlement to education, health services and employment opportunities for citizens than it is for non-citizens; a lower level of some of these benefits for permanent residents; and none for transient visitors to a country who do not pay taxes or fulfil other obligations of citizenship or legal residence. While such questions should clearly be considered in relation to specific claims and individual conditions of claimants, my plea is that this should be done with due regard to the underlying rationale of universality of human rights which does not exclude other valid and relevant factors in determining policy. I will return to these issues later in this lecture.

Moreover, I am suggesting that the linkage of universality of human rights and global citizenship should facilitate the granting of citizenship at the national level while gradually diminishing any distinction between citizens and non-citizens that cannot be justified in human rights terms. To illustrate the point, a human rights approach would require more liberal grounds for granting legal citizenship to Muslims who came to various European countries as guest workers, students, for family reunification or other reasons, in the country of their residence. The same approach would also require securing the human rights of those who do not qualify for legal citizenship. In other words, the Muslims in Europe should neither be disadvantaged nor privileged for being Muslims, and the same applies to all other adherents of any religion or belief.

To be clear and categorical on this point from the outset, the application of this human rights approach to Muslims merely by way of illustration does not imply that the Muslims in Europe are either an undifferentiated monolithic entity, or helpless 'innocent' victims of racism and xenophobia. Indeed, those commonly collectively referred to as "Muslims" in Europe often have much more in common with other Europeans than with each other. Moreover, for most Muslims, especially second and third generation immigrants, whether citizens or not, the European country they now live in is the only home they have. They are as European as their neighbours, and no longer people from another place who can somehow "go home." These points are important to note here in anticipation of the problematic assumption, outlined in section 8 below, that 'European' and 'Muslim' are by definition mutually exclusive categories. In my view, the construction of 'European' as a cultural category that excludes Islam, or that being Muslim, is incompatible with being European is inconsistent with the principle of the universality of human rights. At the same time, Muslims should not take such entitlements for granted without affirming their commitment to the universality of human rights and obligations of citizenship of their country and of the world at large.

The urgent need to challenge such simplistic assumptions or claims by all sides is at the core of my call for promoting a human rights approach to citizenship in social policies, educational programmes, through the media and other

civil society activities. In all these activities, it is necessary to maintain a balance between competing rights or claims, rather than pretend that there is no tension or conflict among them. On the one hand, it is necessary to respect the cultural and religious right to self-determination, for example, to avoid requiring Muslims (or other immigrants) to abandon or renounce their own identity in order to be accepted as citizens or non-citizen residents of the country. On the other hand, all communities must also be willing and able to question and transform their own traditions in response to the requirements of their own internal and broader contexts.

The challenge of rethinking citizenship from a human rights perspective is profoundly 'global' in the sense that it faces the adherents of all religions and belief systems, state and non-state actors, national and transnational entities, scholars, civil society actors and business. I am calling here on European states and societies to take the lead in responding to this global challenge not only because this region is the home of the concept of the 'territorial' state that has come to define national citizenship throughout the world,<sup>3</sup> but also because of the normative and institutional strength of the universality of human rights among Europeans.

The establishment and development of human rights as due to all human beings by virtue of their humanity and without any kind of distinction under the Charter of the United Nations of 1945 and the Universal Declaration of Human Rights (UDHR) seeks to achieve the benefits of constitutional entrenchment of certain rights beyond the contingencies of national politics. That is, these founding documents initiated the process of internationalisation of the principle of a constitutional bill of rights on a global scale, as rights that are protected against abrogation by the government of the day, even with the support of the strong majority of the population. The significant difference is that constitutional rights at the national level are due only to the citizens of the particular state, whereas human rights are due to all human beings everywhere. Yet, while set as the 'common standard of achievement for all peoples and nations', according to the Preamble of the UDHR, universal human rights can only be implemented in practice through national constitutional and legal systems. Human rights treaties and institutions that have evolved since 1945 seek to implement the universality of human rights, but they can only do so through national systems. It may be helpful at this stage to briefly explain the dual paradox of the idea of universality and the present system of its implementation.

<sup>3</sup> By 'national' citizenship I mean political and legal citizenship of a specific state or country, as distinguished from regional and global citizenship that are not yet widely accepted or sufficiently established. I prefer the term 'territorial state' because the idea of the 'nation' is often used to exclude or suppress religious and other minorities.

The first paradox is that, while it is imperative to uphold and protect human rights throughout the world, the universality of these rights cannot be assumed nor simply proclaimed. Since all human societies adhere to their own normative systems, which are necessarily shaped by their particular context and experiences, any universal concept is by definition a *construct or hypothesis* that cannot be simply proclaimed or taken as given. Human beings know and experience the world as themselves, men or women, African or European, Christian, Muslim or Hindu, rich or poor. The consciousness, values and behaviour of human beings everywhere are partly shaped by their local cultural and religious traditions. The quality of being a universal norm can therefore only be achieved through a global consensus-building process, and neither assumed nor imposed through the hegemony of universalising claims from one relativist perspective or another.

As I have argued elsewhere,<sup>4</sup> this paradox can and should be *mediated and negotiated* through practice over time, rather than expected to be resolved once and for all. The notion of mediation is used here to emphasise that the tension remains, while the idea of negotiation indicates the multiplicity of authorship and contributions from a variety of perspectives. The underlying principle of equality and non-discrimination includes the right to be different, as people do not abandon their distinctive identity and religious or philosophical beliefs in order to qualify for human rights, but claim these rights as the persons they are and through their own experiences.<sup>5</sup> The challenge is therefore how to promote and sustain consensus on universal human rights norms despite the permanence of difference among persons and cultures. To avoid misunderstanding, my purpose in raising this challenge is to affirm and realise the universality of human rights, as a practical principle of policy for all societies, rather than questioning the paramount for it. I will illustrate the mediation of this first paradox in relation to Islam and Muslims in the second section of this lecture, after introducing the second human rights paradox which relates to the implementation of these rights.

The present system and processes by which human rights are supposed to be implemented are premised on the traditional view that rights are to be understood and realised under a specific political or legal system, and understood within a particular religious/cultural frame of reference. The tension between the universality of human rights and citizenship stems from their complex relation-

<sup>4</sup> See, for example, *Human Rights in Cross-Cultural Perspectives: Quest for Consensus*, (Philadelphia, PA: University of Pennsylvania Press, 1992); 'Cultural Transformation and Normative Consensus on the Best Interest of the Child,' *International Journal of Law and the Family*, (vol. 8, 1994), 62-81; and 'The Contingent Universality of Human Rights: The Case of Freedom of Expression in African and Islamic Contexts,' *Emory International Law Review*, (vol. 10, 1997) 29-66.

<sup>5</sup> A. SACHS, *Advancing Human Rights in South Africa*, (Capetown: Oxford University Press, 1992) ix.

ship with the European model of the territorial state with exclusive sovereignty and jurisdiction, which came to prevail throughout the world through colonialism.<sup>6</sup> This model of the state has also been incorporated into international law, which is the legal framework for the protection of human rights under the UN and other regional systems. Universal human rights are legally binding on states because they are provided for in treaties under international law, yet these obligations are supposed to be implemented by sovereign states within their own exclusive territorial jurisdiction. In other words, human rights are the standard by which the performance of every state must be judged, regardless of what its own constitution, legal system and policies provide for or implement. But since territorial sovereignty precludes intervention in the 'internal affairs of states' (Article 2(7) of the UN Charter), the paradoxical result is that states are entrusted with the implementation of international standards within their own borders. As a framework for international cooperation in the protection of human rights, the present system also relies on the willingness of states to hold each other accountable for their human rights failures, often at some economic, political, security or other risk to their own national interests.

This paradox is real because the violation or protection of human rights necessarily happens within the geographical and legal jurisdiction of one state or another, yet the principle of sovereignty and territorial integrity of the state preclude external intervention to protect human rights without the consent and cooperation of the state itself. Moreover, since pressure by external actors is difficult to sustain, and is often counter-productive, it is ultimately up to citizens to hold officials of the state accountable for any violation that may occur. It is also citizens who can ensure the adoption of appropriate policies and provision of necessary resources by the state for broader implementation of human rights norms. The ultimate measure of success is for human rights to be routinely respected and protected in the first place, as well as ensuring that effective accountability immediately follows whenever a violation occurs. In both aspects, in the final analysis, it is citizens acting through a variety of strategies and levels, who can ensure systematic and sustainable protection of human rights.

To briefly explain, official human rights practitioners at the governmental and inter-governmental level as well as civil society advocates tend to do their work in a piecemeal and reactive manner, responding to human rights violations after they occur, rather than pre-empting them or preventing their occurrence in the first place. Monitoring and advocacy systems also tend to focus on specific cases, or at best limited issues, in order to be effective in the short term, without attempting to address structural or root causes of human rights violations or creating institutional mechanisms for sustainable respect for and protection of rights.

<sup>6</sup> A. ANGHIE, *Imperialism, Sovereignty and the Making of International Law*, (Cambridge: Cambridge University Press, 2004), 199–204.

When violations are publicised, the assumption is that other governments are not only willing to risk their national interests in pressuring offending governments, but also have an effective way to exert such pressure. The complexity and contingency of foreign policy objectives and shifting priorities of all governments often preclude reliable prediction of whether any government will act, when and in what ways. It is also difficult to achieve sustainable change without the willingness of other governments to stay focused on the specific situation long enough for results to be achieved.

In light of these reflections, it is clear that the mediation of the two paradoxes of universality and self regulation by the state is ultimately founded on the legitimacy and coherence of human rights standards among the general population of each country. Without such legitimacy and coherence, citizens are unlikely to take the necessary political and legal action to ensure compliance by the state. This is the reason for emphasising the inherent connection between citizenship and human rights. As I continue to clarify this approach in subsequent sections, I would recall that I am using the case of Muslims in Europe only to illustrate the challenge facing all societies and communities, religious and cultural traditions throughout the world. As applied to this illustration, this 'universal' challenge can be stated as follows. On the one hand, if Muslims are to found their citizenship claims on human rights grounds, they should have no hesitation in upholding the universality of these rights. On the other hand, European policy makers and opinion leaders should also be clear about the sense in which the relationship between Islam and human rights is or is not relevant to the situation of European Muslims. I am deliberately introducing this issue here to anticipate the assumption that Muslims find it difficult to accept the universality of human rights just because they are Muslims.

## 2 ISLAM, MUSLIMS AND HUMAN RIGHTS

In taking the relationship between Islam and human rights seriously I am asserting that this is an important issue, without implying or suggesting that there is either compatibility or incompatibility between the two. Given the very recent origins and radical nature of the universality of the human rights paradigm, it would be unrealistic to expect this idea to be in full accord or total discordance with vastly complex and varied Islamic traditions. Yet, if human rights are indeed universal, that universality cannot be claimed without taking into account religious perspectives and experiences. The idea of universal human rights would be incoherent if it does not take Islam into consideration when Muslims constitute 20.12 percent of the total world population, living in every continent and region,

predominantly in Africa and Asia.<sup>7</sup> They are the majority of the population in 44 states, one quarter of the membership of the United Nations. While Islam is not the only determining factor of the attitudes of Muslims regarding the universality of human rights, engaging this and other world religions is critical for the validity and efficacy of this concept.

The issue I am raising here is how being a Muslim is relevant to one's view of, or commitment to, human rights. Since Islam, or any other religion for that matter, cannot be the sole source or cause of the behaviour of believers, Muslims may accept or reject human rights norms regardless of what they believe to be the 'Islamic' view on the subject. The level of compliance with human right norms is more likely to be associated with such conditions as political stability and economic and social development, than with Islam as such. To the extent that Islam is a relevant factor, its impact or influence cannot be understood in isolation from those broader conditions, as well as the specific interpretation of Islamic principles that are prevalent in the particular country or region. It is not possible therefore to predict or explain the degree or quality of human rights compliance as the logical consequence of the relationship between Islam and human rights in an abstract theoretical sense.

In fact, the vast majority of countries where Muslims constitute the majority of the population have ratified the major human rights treaties, and their record of compliance is similar or comparable to that of other countries in their regions. Moreover, the human rights record of those countries in East or West Africa, South or Southeast Asia is similar to that of other countries in their regions, presumably because that is shaped or influenced by similar political and economic factors, legal systems and institutional capacity. Many Muslims, whether part of a majority or minority of the population of the country, have also expressed their acceptance of human rights by struggling for the protection of those rights locally, and in collaboration and solidarity with other persons and civil society organisations throughout the world. To my knowledge, there are no studies showing a correlation between Muslims constituting the majority or significant minority of the population and level of human rights observance. On the contrary, some studies show that Muslims share commitment to these values.<sup>8</sup>

In other words, there are no factual or empirical bases for any negative perception about Islam and Muslims in relation to human rights in general. It can be easily demonstrated that the Islamic tradition at large is basically consistent with most human rights norms, except for some specific, albeit very serious, aspects of the rights of women and freedom of religion and belief. It is not possible to

<sup>7</sup> CIA, *The World Fact Book*, <http://www.cia.gov/cia/publications/factbook/geos/xx.html>; *select World* (viewed 26 February 2006).

<sup>8</sup> R. INGLEHART and P. NORRIS, 'The True Clash of Civilizations,' *Foreign Policy*, (March/April 2003), 62-70.

discuss these problematic aspects here, and I have presented elsewhere an Islamic reform methodology for addressing those questions at the theoretical level.<sup>9</sup> The main point I want to emphasise here is that the validity and efficacy of human rights among Muslims must be promoted through an internal transformation of their attitudes about Shari'a in general, and the interpretation of certain principles, especially regarding the rights of women and non-Muslims.<sup>10</sup> What would be counter-productive and constitute a human rights violation in itself is to attempt to force Muslims to make a choice between Islam and human rights. If issues are presented in such terms, there is no doubt that Muslims will uphold Islam over human rights every time, as this limited largely procedural paradigm cannot be a substitute for religion or rival its transformative power in their lives.

I find that framing the issue in terms of seeking to transform attitudes and values is more constructive than simplistic assertions of the compatibility or incompatibility of Islam and human rights. Such binary positions tend to overlook the diversity and flexibility of interpretations of Islam, on the one hand, and dynamism and pragmatism of human rights, on the other. In contrast, the transformative approach is necessary for mediating the paradox of the idea of universal human rights in a world of profound and permanent cultural and contextual difference. As emphasised earlier, since all human beings are entitled to these rights by virtue of their humanity, without any distinction on such grounds as race, sex, religion, language or national origin, no person should be required to give up any of these essential aspects of his or her identity in order to qualify for these rights. The revolutionary idea of universal human rights remains challenging for all human societies because we all tend to either discriminate among people in terms of such attributes as religion and sex, or expect them to conform to our own ethnocentric and uniform notions of a universal human being. Muslims should neither discriminate against people on any of those grounds, nor be required to abandon their religion in order to qualify for these rights. To justify their own human rights claims without distinction on such grounds as race, sex or religion, Muslims must accept the right of others to be entitled to the same rights and without distinction on such grounds.

The UDHR avoided identifying religious justifications for these rights in an effort to find common grounds among believers and non-believers. But, this does not mean that human rights can only be founded on secular justifications because

<sup>9</sup> See, for example, *Toward an Islamic Reformation: Civil Liberties, Human Rights and International Law*, (Syracuse, NY: Syracuse University Press, 1990).

<sup>10</sup> A. A. AN-NA'IM, 'State Responsibility Under International Human Rights Law to Change Religious and Customary Law,' in R. J. COOK, editor, *Human Rights of Women: National and International Perspectives*, (Philadelphia, PA: University of Pennsylvania Press, 1994), Chapter 7; and 'Islamic Foundations of Religious Human Rights,' in J. WITTE, Jr., and J. D. VAN DER VYVER, editors, *Religious Human Rights in Global Perspectives: Religious Perspectives*, (The Hague, Martinus Nijhoff Publishers, 1996), 337-59.

that does not address the need of believers to relate their moral and political actions to their religious beliefs. The underlying rationale of the human rights doctrine itself would entitle believers to found their commitment to these norms on their own religious beliefs, in the same way that others may seek to affirm their commitment on secular philosophy. We are all entitled to expect equal commitment to the human rights doctrine from others in our communities and societies, at the national and international level. But this does not mean that any of us can prescribe the grounds on which others may wish to found their commitment. In any case, I find that the dichotomy between the religious and the secular is often exaggerated when it is taken to mean an inherent incompatibility of the two, though they are in fact interdependent with human rights.<sup>11</sup>

Another point I wish to emphasise regarding the relationship between religion and human rights is that human interpretation and action are unavoidable in rendering any religious text relevant to the lives of believers. Muslims believe that the Qur'an is the literal and final word of God and Sunna (traditions of the Prophet) is the second divinely inspired source of Islam. But, both sources have no meaning and relevance in the daily lives of believers and their communities except through human understanding and experience. The Qur'an was revealed in Arabic, which is a human language that evolved in its own specific historical context, and many verses of the Qur'an were addressing specific situations in the daily lives of early Muslims at that time (610 to 632 CE) in their local context of western Arabia. Sunna also had to respond to the immediate concerns arising in that local reality in its broader context.<sup>12</sup> Thus, *human agency* was integral to the process of revelation, interpretation and daily practice since the time of the Prophet, and for subsequent generations of Muslims who adhered to the Qur'an and Sunna according to their own understanding in their respective historical context and daily experiences. But it should also be noted that acknowledging this fact does not necessarily mean accepting or rejecting any particular interpretation of Islamic sources. Rather, my point is that since any understanding of Islam is unavoidably human, the ability of believers to challenge or modify any interpretations, however established or orthodox it may seem, is in fact integral to being a believer.

It should also be noted that the human agency of all human beings, Muslims and non-Muslims alike, is interactive with that of other people and influenced by relevant events, whether local or further away. Thus, our choices and responses are often conditioned or influenced by what others do or say, and the outcomes of our agency are contingent on what else is happening in the world around us. The

<sup>11</sup> A.A. AN-NA'IM, 'The Interdependence of Religion, Secularism, and Human Rights,' *Common Knowledge*, (vol. 11:1, 2005), 65–80.

<sup>12</sup> See, for example, W. B. HALLAQ, *A History of Islamic Legal Theories* (Cambridge, England: Cambridge University Press, 1997), 1–15.

role of Muslims in contributing to the global joint-venture of protecting and promoting human rights at home and abroad includes their collaboration with others in that regard. Since human rights are by definition universal in concept and application as the equal rights of all human beings everywhere, each society must take this paradigm seriously before it can demand the same from others. While ideally our commitments to human rights principles should be independent of how other people feel or what they do, in practice people tend to relate their own attitudes and actions to that of others. Thus, charges of the double standards and hypocrisy of others are often made to justify our own actions, as if to say, if you fail to uphold my human rights, I will retaliate by refusing to uphold yours.

It is therefore appropriate to speak of Muslims not Islam, Christians not Christianity, Hindus not Hinduism, and so forth, because these religions do not act as autonomous entities, but rather through the attitudes and actions of believers. By posing the question in terms of believers and not the abstract beliefs they are presumed to hold makes it clear that it is the same general question of how human beings everywhere negotiate the relationships between their religious beliefs and human rights. That is, the question is always about people's understanding and practice of their religion, whatever it may be, and not the religion itself as an abstract notion. This does not deny the communal dimension of religious experience or collective identity of believers, but emphasises that this aspect is also the product of human agency, even when organised as religious authority or social institution.

Commitment to human rights should also be related to these rights as a living and evolving body of principles and rules, not as a purely theoretical concept. Whether regarding religion or human rights, the reference to states, countries or international organisations like the United Nations is really to the people who control the state apparatus, inhabit a country or work through international institutions. The human rights action of such entities is always about how people negotiate power, justice, and pragmatic self-interest, at home and abroad. Such negotiations always take place in specific historical contexts, and in response to the particular experiences of believers and unbelievers living together. Each religion, culture or philosophy is relevant to those who believe in it in the specific meaning and context of their daily lives and not in an abstract, de-contextualised sense.

Issues regarding Muslims, whether constituting the majority of the population of a country or living as a small minority should be framed on the basis of a clear appreciation of the permanent social, cultural and political diversity among Muslims, particularly in relation to their understanding and practice of Islam. That diversity testifies to the impact of contextual and historical factors in the theological and legal development of the Islamic traditions. Being Muslim did not in fact have the same meaning in different places or over time. From an Islamic

perspective, the reality and permanence of difference among all human beings, Muslims and non-Muslims alike, is expressly and repeatedly affirmed in the Qur'an.<sup>13</sup> This permanent reality is one reason why the protection of such human rights like freedom of belief, opinion and expression, is imperative from an Islamic point of view in order to protect the rights of Muslims to be believers in their own way, without risks to life and livelihood. After all, without the existence of the right to disbelieve, there is no possibility of any genuine belief.

It may also be helpful to consider the implications of this reality of Islamic diversity to the nature or basis of religious beliefs. The fact that specific verses in the Qur'an are taken to authorise or require certain actions does not explain why some Muslims choose to act on one understanding of such verses, while others act on a different understanding or have a different relationship to the text altogether. Such choices are the product of the human agency of believers, not the inherent or eternal meaning of Islam as such, independent of all material conditions under which Muslims live and interact with others. If beliefs regarding the rights of women are the direct meaning of Islamic texts, there would not be so much disagreement among Muslims on these issues.

This is not to suggest that any of the established schools of Islamic jurisprudence (*madhahib*) already accept equality for women because that is simply not true. In fact, it would be unrealistic to expect that since those schools were established more than a thousand years ago, which means that their interpretations of relevant texts reflected the historical context of those scholars. By the same token, alternative interpretations are possible, and are being developed by many Muslims in terms of their present context.<sup>14</sup> Since any formulation of Shari'a is the product of human interpretation in a specific time and place, it can change through the same process, over time.

In conclusion of the preceding framing remarks, it is clear that the manner in which Muslims are likely to interact with human rights will be conditioned by such factors as what other societies are doing about the same issues, and the orientation, motivation or objectives of various actors on all sides. For instance,

<sup>13</sup> See, example, 10:93; 11:118–119; 32:25; and 45:17 (cited here by number of chapter followed by number of verse).

<sup>14</sup> See, for example, F. MERNISSI, *Women in Islam: an Historical and Theological Enquiry*, translated by M. J. LACKLAND, Oxford, England, (Basil Blackwell Ltd., 1991), 49–81; F. MERNISSI, *The Veil and the Male Elite: A Feminist Interpretation of Women's Rights in Islam*, (New York: Perseus, 1991); A. KARAM, *Women, Islamisms, and the State: Contemporary Feminisms in Egypt*, New York: St. Martin's Press, (1998); A. WADUD, *Qur'an and Woman: Rereading the Sacred Text from a Woman's Perspective*, (Oxford: Oxford University Press, 1999); M COOKE, *Women Claim Islam: Creating Islamic Feminism Through Literature*, (New York: Routledge, 2000); A. BARLAS, *Believing Women in Islam: Unreading Patriarchal Interpretations of the Qur'an*, (Austin: University of Texas Press, 2002); N. BARAZANGI, *Woman's Identity and The Qur'an: A New Reading*, (Gainesville: University Press of Florida, 2005); and S. MAHMOOD, *Politics of Piety: The Islamic Revival and the Feminist Subject*, (New Jersey: Princeton University Press, 2005).

many Muslims may become entrenched in conservative or defensive positions in response to perceptions that they are required to 'prove' their allegiance to the human rights paradigm while others are not expected or required to do the same. Some Muslims may also resent the constant propaganda that their tradition is inherently regressive or authoritarian, with little understanding of the rich diversity and enlightened aspects of that tradition.

Another set of factors that can influence positions has to do with power relations and institutions: how inclusive is the international law that is supposed to provide the legal framework for human rights? Does it sufficiently respect the sovereignty of Muslims, with due regard for their concerns about security and development? Are Muslims accepted as genuine *subjects* of international law, or merely 'objects' of a system that is defined and applied by powerful Western countries to control other peoples and exploit their resources? When vivid memories of European colonialism are reinforced by the illegal invasion and occupation of Iraq by the United States and United Kingdom, the latter having been the previous colonial power throughout the Muslim world until a few decades ago, is it really surprising that many Muslims find it difficult to accept the credibility and legitimacy of international law, which is the basis of the binding force of international human rights norms?

I am not of course suggesting that Muslims reject the universality of human rights as a religious imperative. Rather, my point is that the attitudes or views of Muslims should be understood in a broader historical context, and through the application of socio-economic and political analysis, as with any other human beings and their communities. While many Muslims do indeed uphold this principle, and others reject or oppose it, the reasons or rationale of their positions is not Islam as such. This is not to suggest that Islam is totally and completely irrelevant, but only to emphasise that its relevance or role is not different from that of other religions among their believers. In other words, I am calling for applying an historical and social scientific analysis to understanding the role of Islam among Muslims, as should be done with other believers and their societies.

### 3 RIGHTS AND CITIZENSHIP

Turning now to an elaboration on the second human rights paradox of self-regulation by the state indicated earlier, I would first note that this tension has always been true of the protection of constitutional rights in national settings. Whenever national constitutions provide for entrenched fundamental rights against abuse or excess of power by the state, the authority and power to enforce those rights remains with the state. That paradox has traditionally been mediated at the national level by the emergence of strong local civil society organisations which

are willing and able to use domestic legal institutions and political processes to force governments to comply. Domestic civil society organisations and public opinion at large must also be willing and able to act in a similar manner in relation to these universal norms. Since external human rights defenders cannot be at the sites of violations long enough, with sufficient resources, understanding of the local situation and ability to achieve sustainable change, the most viable strategy in my view is to invest in empowering local actors to protect their own rights.

This view does not prescribe a particular set of activities for all human rights actors in every situation, or necessarily exclude various strategies. My point is that the degree and quality of empowering local actors to protect their own human rights should be the underlying criterion for evaluating all activities and strategies because this is consistent with the rationale of human rights in the first place. The human dignity of every person should be upheld by his or her own agency, instead of being dependent on the goodwill of others, which is often doubtful or mixed with their own interests. This means that the focus of human rights implementation should be more 'people-centred' and less dependent on the ambiguities and contingencies of inter-governmental relations.<sup>15</sup> Realistically, it will remain necessary for all governmental and non-governmental actors to maintain the highest possible level of monitoring and advocacy for the protection of the human rights of all, everywhere, because victims are usually unable to assert their own rights effectively. But the objective must be to gradually diminish such dependency on external protection.<sup>16</sup>

From this perspective, one connection between citizenship and rights in general is the critical role of citizens in protecting their own rights. This approach was first applied to fundamental constitutional rights in national settings and then extended to human rights since the UN Charter and UDHR, which sought to internationalise the idea of an entrenched bill of rights to a global scale. It is from this perspective that I would emphasise the importance of the mutual support and synergy of human rights and global citizenship. That is, global citizenship is needed to play the role for universal human rights that is played by national citizenship for national constitutional rights. Since both paradoxes of universality and self-regulation by the state can only be mediated through the agency of human beings everywhere, global citizenship is a critically important status and institution that enables and safeguards that agency in practice. The mutual

<sup>15</sup> A.A. AN-NA'IM, 'Expanding the Limits of Imagination: Human Rights from a Participatory Approach to New Multilateralism,' M.G. SCHECTER, editor, *Innovation in Multilateralism*, (Tokyo: United Nations University Press, 1998), 205–22.

<sup>16</sup> A.A. AN-NA'IM, 'Introduction: Expanding Legal Protection of Human Rights in African Context,' in A.A. AN-NA'IM, editor, *Human Rights under African Constitutions: Realizing the Promise for Ourselves*. (Philadelphia, PA: University of Pennsylvania Press), 1–28; and 'Human Rights in the Arab World: A Regional Perspective,' *Human Rights Quarterly*, (vol. 23:3, 2001), 701–32.

support and synergy of the two concepts is that human rights provide the normative content of citizenship, which is the practical framework for people to organise to enforce and protect these rights on the ground. This interconnectedness is facilitated by the dynamic and evolving nature of both human rights and citizenship,<sup>17</sup> but I am concerned here with the dynamism and evolution of citizenship through theoretical reflection as well as political and legal developments.

As indicated at the beginning, the need for the evolution of the concept of citizenship from its traditional national scope to a global scale is inherent to the idea of the universality of human rights as the rights of every human being, and not only of the citizens of a particular state. National citizens are entitled to civil rights provided for by their own national constitutional and legal system, but aliens are not entitled to those rights unless they are able to assert the same as human rights under the jurisdiction of a state without being its citizens. This is the most significant difference between national civil rights and universal human rights, which is that human rights are due to all human beings by virtue of their humanity while national civil rights are due to citizens by virtue of their citizenship. This basic tension can be illustrated by the clear distinction made by the United States government between citizens and aliens in the aftermath of the terrorist attacks of 11 September 2001.<sup>18</sup> For example, aliens who are held in the custody of the United States under the ambiguous category of "enemy combatants" (instead of prisoners of war entitled to protection under international humanitarian law) are denied basic due process and fair trial rights under international human rights law.<sup>19</sup> This policy is in clear violation of international human rights law because the trial rights that are denied to these aliens by the United States government are provided for by Article 14 of the International Covenant on Civil and Political Rights of 1976, which is one of the few human rights treaties actually ratified by the United States.

This situation in the United States is particularly disturbing because of the wider global consequences of that policy. But the underlying tension between the civil rights of citizens and human rights of all human beings is a complex and difficult issue in many parts of the world. The apparent difficulty, as noted earlier, is that it is neither realistic nor desirable to expect states to grant the civil rights of citizens to foreigners, who do not owe allegiance to the state or fulfil obvious

<sup>17</sup> A.A. AN-NA'IM 'Human Rights and the Challenge of Relevance: The Case of Collective Rights,' in M. CASTERMANS-HOLLEMAN, F. VAN HOOFF & J. SMITH, editors, *The Role of the Nation-State in the 21<sup>st</sup> Century: Human Rights, International Organizations and Foreign Policy, Essays in Honour of Peter Baehr*, (The Hague: Kluwer Law International, 1998), 3–16.

<sup>18</sup> J.K. ELSEA, 'Detention of American Citizens as Enemy Combatants,' CRS, *Report for Congress*, [www.fas.org/srgp/crs/natsec/RL31724.pdf](http://www.fas.org/srgp/crs/natsec/RL31724.pdf).

<sup>19</sup> For a comprehensive discussion, including most recent cases before US courts, see N. ABRAMS, *Anti-Terrorism and Criminal Enforcement*, (2<sup>nd</sup> edition, St. Paul, MN, Thomson/West, 2005), 295–380.

obligations of its citizens like paying taxes, voting or otherwise participating in the political process of the country. The approach I am proposing for mediating this tension is to develop and apply the concept of global citizenship as the basis of human rights claims of all human beings, as distinguished from national citizenship as the basis of civil rights of citizens and possibly permanent residents. The conceptual or definitional part of this equation can be seen in the development of the concept of citizenship reviewed in the following three sections of this lecture, which then goes on to consider its possible application to the situation of Muslims in Europe in the last three sections.

As shown in the overview in the next section, the idea of citizenship as we know it today is very recent in human history in general, and remained contested almost throughout the world well into the 20<sup>th</sup> century. This point can be illustrated with reference to the status of African-Americans in the United States, Turks in Germany and North Africans in France, in addition to more obvious cases in Africa, Asia and Latin America. But these situations also demonstrate that the concept and reality of citizenship is being gradually realised through cultural understandings and theoretical reflections as well as through the development of appropriate political and legal institutions. Considering this historical evolution of the basic concept of citizenship, is it possible to imagine how the concept might work at multiple levels, from the local to the regional and global? The idea of global citizenship I am arguing for here is neither inconsistent with nor exclusive of traditional conceptions and experiences of national citizenship. As indicated above, global citizenship relates to universal human rights, while national citizenship applies to national civil rights. The conceptual and practical challenge is in trying to apply both concepts simultaneously within the territory and under the jurisdiction of the same state.

It seems to me that the present situation of Muslims in Europe provides a good opportunity for clarifying and testing these ideas for at least three sets of factors. First, the various countries of this region already enjoy a high level of economic and social development, political stability and institutional capacity, as well as strong commitment to the universality of human rights. This combination of factors promises both the capacity to clarify and apply the two overlapping conceptions of citizenship, in addition to a high level of development of the underlying values and necessary political and legal institutions of constitutionalism and democratic governance.

A second set of factors relates to the tensions and dilemmas presented by the situation of Muslims in Europe. As I will briefly outline later, the majority of European societies are torn between concerns about the stability and security of their own countries, on the one hand, and a humane commitment to the universality of human rights, on the other. Consequently, European societies are neither able to ignore their immediate concerns with stability and security, nor willing to

simply violate the civil rights of Muslims citizens or human rights of non-citizens. Recalling the point made earlier about the interplay of the right to be the same and the right to be different, European societies are struggling in good faith to accept the Muslims in Europe as citizens who happen to be Muslims, rather than Muslims who happen to be in Europe.

The third set of factors relates to the concept of transnational European citizenship that has evolved under various regional institutions, especially the Council of Europe and what is commonly known as the European Union. In other words, Europeans have already come to accept a regional conception of citizenship that can be a logical step toward global citizenship. The governmental authorities and civil society actors have already learned with work with a transnational system that enjoys a high degree of legitimacy and efficacy among the various societies of Europe.

In emphasising the strong promise of these and other factors, I am not suggesting that positive outcomes for the synergy and mutual support of global citizenship and universality of human rights are secure or irreversible in the European context. All I am saying and hope to substantiate in this lecture is that the situation of the Muslims in Europe offers realistically strong prospects for the approach I am proposing, but only time will tell whether my optimism is justified. It is all a matter of the moral and political choices Europeans make, and the action they take. Surely, every effort must be made to clarify concepts, cultivate political support, design and implement strategies, and so forth. But one should not wait for guarantees of success before taking the necessary action, because that situation will never arise. I now turn to some clarification of concepts as a prerequisite for all other tasks in this process, in relation to Europe in particular. Similar analysis may be applied to other parts of the world, but with due regard to local historical and philosophical context.

#### 4 THE EVOLUTION OF CITIZENSHIP

The antecedents of the European concept and practice of citizenship can be traced all the way back to Ancient Greece, when the citizen was defined as a member of the *polis*, a city-state such as Athens.<sup>20</sup> Aristotle, whose view of Athenian citizenship represented the accepted paradigm, "felt that the performance of citizenship was a core element of humanity."<sup>21</sup> Citizenship in that context was not merely an

<sup>20</sup> J.G.A. POCOCK, 'The Ideal of Citizenship since Classical Times,' *Queen's Quarterly* (Vol. 99:1, Spring 1992). I am referring here to written records in the European context, without excluding other antecedents, as may be found in ancient Chinese or Hindu civilizations, for instance, or in oral traditions of different peoples around the world.

<sup>21</sup> K. FAULKS, *Citizenship*, (New York: Routledge Press, 2000), 14.

identity affording certain rights and responsibilities but a framework within which to live life. The governmental, militaristic and religious values of citizenship were internalised from birth. The ancient Greek term *atimos*, which was used to describe those stripped of such functions of their citizenship as attending assembly meetings and jury duty, literally meant being without honour and value, which emphasises the moral and communitarian sense of citizenship. But the honour and value of citizenship was limited and exclusive, as the citizen had to be a male of known genealogy, a patriarch, a warrior and the master of the labour of others (normally slaves). To qualify as a citizen, the individual had to be the patriarch of a household (*oikos*), where the labour of slaves and women satisfied his needs and left him free to engage in political relationships with his equals.

That principle of limited and exclusive citizenship was continued by the Romans, but the concept differed from its Greek meaning. Initially, during the Roman Republic government (500 BCE to 27 CE), the *civis Romanus* corresponded to the Ancient Greek paradigm in which citizenship was rooted in the social and political community, but it eventually came to solely denote legal status. As the Romans viewed most actions as revolving around property or things, a person came to be "defined and represented through his actions upon things ... the individual thus became a citizen through the possession of things and the practice of jurisprudence."<sup>22</sup> Thus, a Roman citizen came to mean someone was free to act by law, free to ask for and expect the protection of the law, who enjoyed legal standing within the Roman legal community. That paradigm shift reflected changes in the structure of government, from the Republican Rome sense of being a citizen as "to rule and to be ruled" to the imperial centralised government started by Julius Caesar and perfected by Augustus, in which "citizenship became little more than an expression of the rule of law."<sup>23</sup> Under the Roman Imperial government, citizenship was increasingly used as a bureaucratic organisational and administrative tool, rather than signifying a privileged legal identity. During that stage, the Romans found that granting citizenship to the peoples of the Empire was expedient for collecting taxes and improving military functions. The edict of Emperor Caracalla which granted citizenship to all of the peoples of the Roman Empire signified the evolution of the concept of citizenship into a pragmatic and extensible sense, away from the earlier 'ideal' notion.<sup>24</sup>

With the increasing Christianisation of the late Roman Empire, membership of the church replaced citizenship in satisfying the social, political and legal needs of the people. That period brought a "new localism" in which religious bonds

<sup>22</sup> POCKOCK, 'The Ideal of Citizenship,' 40.

<sup>23</sup> FAULK, *Citizenship*, 20.

<sup>24</sup> D. HEATER, *Citizenship*, (London: Longman, 1990), 16.

counted more than civic responsibilities.<sup>25</sup> But with the revival of commerce and civic competition and rivalry emerged a demand to look for the ancient legal, philosophical and political underpinnings of citizenship. Thus, the increased commercialism and the protection-support model it precipitated resulted in a new civic consciousness. However, the status of the citizen in the medieval period was acquired only by a quasi-aristocratic minority who had exclusive access to certain privileges, immunities and resources, with the honourable recognition of independence as a *civitates* countering feudal forms of dependency.

The Renaissance brought the concept of citizenship into the forefront of political thought and practice. In the Italian city-states during the 15<sup>th</sup> century there was a return to the democratic or active conception of citizenship that had ceased to exist since the fall of the Roman Republic. However, the renaissance not only looked to Ancient Greece and Republican Rome for a sense of the active-political citizen, but also sought to reaffirm the legal implications of citizenship developed by Imperial Rome. The city-states of Italy based their citizenship regulations upon the Roman law presented in the *Corpus juris civilis* of Justinian, which also indicated the legal dynamism of citizenship, as it formed the basis of constant litigation.<sup>26</sup> The Italian Renaissance's renewed use of citizenship influenced other European territories into adopting and adapting the concept to their own socio-political situations. Scholars who came to Italy to study Roman law carried the concept of citizenship back to their homelands where it was subsequently grafted onto feudal practices.

With the increasing centralisation of power in the royal monarch in France and other territories, the powers and rights of individuals against the monarchy came to be asserted in terms of citizenship which signified rights that the king could not legally deny if the citizen continued to be obedient. By the early 16<sup>th</sup> century, Italian ideas had fused with French legal and legislative practices to produce principles of national citizenship. Those principles were clarified and organised into coherent theories during the 16<sup>th</sup> century by jurists and political thinkers, like Jean Bodin who conceived citizenship as signifying a personal relationship between the individual and the King.<sup>27</sup> During the absolutist period of the 17<sup>th</sup> century, the state was considered to be the person of the monarch, and devotion to the king was the most important duty of a citizen, who was thus transformed into a royal subject. Thus, the Renaissance tradition of active citizenship was

<sup>25</sup> P. RIESENBERG, *Citizenship in the Western Tradition: Plato to Rousseau*, (Chapel Hill: University of North Carolina Press, 1992), 99.

<sup>26</sup> C.C. WELLS, *Law and Citizenship in Early Modern France*, (Baltimore: The Johns Hopkins University Press, 1995), xv.

<sup>27</sup> *Ibid.*, 80.

transformed during that period into a more passive practice of service for the monarch.<sup>28</sup>

The Christian Reformation expedited the replacement of the king by the state as the focal point of power and allegiance as well as the source of rights. With the establishment of what came to be known as the nation-state (territorial state) after the Peace of Westphalia in 1648, emerged the early modern concept of national citizenship. Political philosophers like Hobbes developed theories of a direct relationship between the individual and the state.<sup>29</sup> John Locke built upon Hobbes' conceptualisation of the direct relationship of the individual to the state to construct a rights-based theory of citizenship, which became the characteristic feature of European political philosophy in the 18<sup>th</sup> century. As the state grew more powerful, it increasingly became the focal point for demands for the extension of rights.<sup>30</sup> The growing complex and bureaucratic structure of government also increased possibilities of interaction and communication between citizens and the state, thereby promoting the democratic principle of rule-by-consent.

The idea of territorial (national) citizenship was firmly established through the 1689 British Declaration of the Rights and Liberties of the Subject, as well as the French and American Revolutions.<sup>31</sup> The conception of citizenship in the French Revolution was not only linked to the Declaration of the Rights of Man and the Citizen, promising universal and egalitarian potential of status, but also the obligation of civic and military service of the nation. The view that emerged from the French Revolution of citizenship as a collective national identity, and not only an individual political, social and legal status, was inspired by the idea of Jean Jacques Rousseau that "a community could be united by a 'general will' that transcended social conflict."<sup>32</sup> Rousseau also promoted the concept of *popular sovereignty*, whereby sovereign individual citizens enter into a social contract with the state. This view was also adopted by the American Revolution in the Declaration of Independence which explicitly vested sovereignty in the people.

While I have my own reservations about the fiction of 'social contract', I also find the underlying rationale of democratic national citizenship that was promoted on those terms applicable to entities other than the immediate state, hence the possibility of regional and global citizenship I am proposing here. But those European conceptions of citizenship in the 18<sup>th</sup> century had to struggle with the question of the demographic scope of citizenship. For instance, while in the beginning foreigners could claim French citizenship, there was an increasing

<sup>28</sup> WELLS, *Law and Citizenship*, p. 103; M. WOLFE, 'Review of Law and Citizenship in Early Modern France', *Renaissance Quarterly*, (Vol. 50:1, 1997), 292.

<sup>29</sup> FAULKS, *Citizenship*, 23.

<sup>30</sup> *Ibid.*, 25.

<sup>31</sup> R. SHAW 'The Enlightenment concept of Citizenship, rights and governance in Modern and Post-modern States,' <http://www.global-citizenship.org/pdf/research/CitizenshipShawpdf.pdf>, 8.

<sup>32</sup> FAULKS, *Citizenship*, 32.

trend toward narrower scope of citizenship as France's wars with other countries militarised the idea of the nation and therefore citizenship. Thus, Western states gradually extended citizenship within the boundaries of each state, while at the same time excluding those who were not accepted as sharing the same national identity.

The next significant development of the European concept of citizenship that came to prevail globally through colonialism (the United States itself is a product of colonialism) may be found in the welfare-state paradigm of T.H. Marshall.<sup>33</sup> According to Marshall, citizenship is essentially a matter of ensuring that everyone is treated as a full and equal member of society. For him, the fullest expression of citizenship requires a liberal democratic welfare state which guarantees civil, political and social rights to all. In this way, the welfare state ensures that all citizens are full members of society, able to participate in and enjoy its common life of society. If any of these rights are violated, people will be marginalised and feel unable to participate.<sup>34</sup> While Marshall seems to take the European notion of national citizenship for granted, that paradigm has been increasingly challenged by the realities of economic globalisation and security/political interdependence. While this view appears to be receding by the end of the 20<sup>th</sup> century, it may well regain currency in the near future.

## 5 GLOBAL CITIZENSHIP FROM A HISTORICAL PERSPECTIVE

Though it may be sound idealistic or futuristic, the idea of a global or world citizenship has in fact been discussed for the last twenty-five hundred years. The philosophical antecedents of this idea may be found in the 4<sup>th</sup> century BC, when Diogenes the Cynic (412–323 BC) called himself a “citizen of the world.”

The Stoics of Greece and Rome had universalistic and cosmopolitan visions of a city of the universe or world in which “all human beings could live in peace with each other under a universal natural law.”<sup>35</sup> The stoics argued in favour of having dual civic rights, duties and identities as both a citizen of the state and citizen of the world. This is the concept of layered citizenship I hope to draw on later in this lecture. Zeno is reported to have said: “Our life should not be based on cities or people each with its own view of right or wrong, but we should regard all men as our fellow-country men and there should be one life and one order, like that of a

<sup>33</sup> T. H. MARSHALL, ‘Citizenship and Social Class,’ *Citizenship and Social Class and Other Essays*, (Cambridge: Cambridge University Press, 1950).

<sup>34</sup> W. KYMLICKA and W. NORMAN, ‘Return of the Citizen: A Survey of Recent Work on Citizenship Theory,’ *Ethics* (Vol. 104:2, 1994), 352–381.

<sup>35</sup> A. CARTER, *The Political Theory of Global Citizenship*, (New York: Routledge, 2002), 12.

single flock on a common pasture feeding together a common law."<sup>36</sup> The discourse on global citizenship and ideals of universalism and cosmopolitanism was continued during the Enlightenment. Such thinkers as Erasmus based their sense of global citizenship and cosmopolitanism on Christian-moral lines. In *Complaint of Peace*, Erasmus said: "The English despise the French, for no other reasons than that they are French, the Scots are disliked because they are Scots.... Why as men are they not benevolent to man, as Christians well-disposed towards fellow Christians?"<sup>37</sup>

The gradual establishment and consolidation of state sovereignty in the 16<sup>th</sup> and 17<sup>th</sup> centuries raised issues of the limits of sovereignty in global politics and how far cosmopolitan values should influence law and practice that continue to be discussed today. Hugo Grotius, for instance, argued for limiting the sovereignty of the state according to the 'law of nature' because all persons are members of a world society.<sup>38</sup> He also drew examples from the non-Western world, including Muslim practices and the cultures of South America.<sup>39</sup> One of the first known proposals to establish a political institution to enforce the cosmopolitan ethos and global citizenship ideal was submitted by Emeric Cruce (1590–1648). In *The New Cyneas* (1623), he proposed a global association, including non-Western nations like Persia, China and Ethiopia. All would send ambassadors to an assembly where decisions would be made by majority to vote on policies and rules, with the goal of not only cultivating peace but of "religious toleration, freedom of trade, and reduction of poverty."<sup>40</sup>

Perhaps the culmination of early modern enlightenment discourse on cosmopolitanism and global citizenship was found in the thought of Immanuel Kant. In his essay *Perpetual Peace* (1795), Kant proposed three constitutional principles for the promotion of peace: 1. A republican civil constitution for every state based on principles of freedom and legal equality of all citizens subject to a representative system of common legislation and separation of powers 2. The rights of nations to be based on a federation of states that would protect the equal rights of constitutional democracies and form a gradually expanding alliance like to prevent war. 3. The cosmopolitan rights of foreigners in their relations with foreign states.<sup>41</sup> Kant envisioned a universal community which has "developed to the point where a violation of the laws in one part of the world is felt everywhere."<sup>42</sup>

<sup>36</sup> *Ibid.*, 12.

<sup>37</sup> *Ibid.*, 20.

<sup>38</sup> *Ibid.*, 26.

<sup>39</sup> *Ibid.*, 28. See also H. BULL, B. KINGSBURY, A. ROBERTS, *Hugo Grotius and International Relations*, (Oxford: Clarendon Press, 1990), 36–48.

<sup>40</sup> F.H. HINSLEY, *Power and the Pursuit of Peace: Theory and the Practice in the History of Relations between States*, (Cambridge: Cambridge University Press, 1967), 18.

<sup>41</sup> H. REISS, editor, *Kant: Political Writings*, 2<sup>nd</sup> edition, translated by H.B. NISBET, (Cambridge: Cambridge University Press, 1991), 93–130.

<sup>42</sup> REISS, *Kant: Political Writings*, 107–108.

Ancient antecedents of the idea of global citizenship can also be found in non-Western traditions. For example, ancient Indian texts like the *Mahabharata* (200 BCE?) laid down universal principles of tolerance, respect for the individual, peace and cooperation such as *vasudheva kutumbakam* —that we are all one family— that propounded universal equality and *ahimsa* or non-violence towards all creation in word and deed. The concept of *chakravarti* in political theory advocated a one-world government to establish peace, and the code of law *Dharma-shastra* was written (by Manu) "for the entire human race, not for any particular nation." As universal in its reach, its legal concepts were especially emphasised.<sup>43</sup> Similar ideas of universal human connection are also found in the writings of Confucius, like *The Analects*.<sup>44</sup> Such earlier antecedence in various non-Western traditions did not directly contribute to recent debates and developments regarding global citizenship. Without digressing into a discussion of possible reasons for that, it is still important to note such inter-cultural religious and philosophical foundations for the idea of global citizenship today because, by definition, the concept and practice must integrate the widest possible range of human experiences.

It is also relevant to note regarding Muslims in particular, the notion of global *Umma*, in the sense of shared identity and tradition, is as old as Islam itself. It is therefore to be expected that Muslims in Europe, like European Christians, Hindus and Jews, can claim multiple intellectual and cultural legacies and heritages that are consistent with antecedent ideas of global citizenship. Those experiences can be seen in sub-regional and inter-regional settings, as in North and West Africa, or the Indian Ocean communities of southern Arabia, East Africa and India, all the way to Southeast Asia. In other words, Muslims have always negotiated overlapping identities and cultural solidarities across borders of local, regional and global *Umma*. The 'local' and the 'global' have always coexisted and complemented each other in the lived reality and the experience of Muslim communities. While that history has been complicated by the 'national' during the 20<sup>th</sup> century, it is sufficiently present in the consciousness of present generations of Muslims to be mobilised in support of overlapping national and global citizenship. But this possibility also raises the challenge of re-imagining the *Umma* in relation to other forms of national and regional identities in the European context.

Despite these wide ranging varieties of rich intellectual history of, and practical experiences with, the idea of global citizenship, practice has tended to lag

<sup>43</sup> M. SUNDARA RAJ 'Awakening of Human Rights' in C.J. NIMRAL, editor, *Human Rights in India: Historical, Social and Political Perspectives*, (New York: Oxford University Press: New York, 1999), 3.

<sup>44</sup> 'Confucian Cosmopolitanism,' in *The Useless Tree: Ancient Chinese Thought in Modern American Life*, [http://uselesstree.typepad.com/useless\\_tree/2006/01/confucian\\_cosmo.html](http://uselesstree.typepad.com/useless_tree/2006/01/confucian_cosmo.html), viewed 24 January 2006.

behind especially in the present world of territorial states. The development of the political worldview that is capable of sustaining the idea of global citizenship has been overcome by perception of inter-state relations in Europe since the 19<sup>th</sup> century "in terms of conflicting interests moderated by the balance of power."<sup>45</sup> Despite increased cooperation between governments that was enhanced by easier global communication and economic exchange during the 19<sup>th</sup> century, law and citizenship remained focused on state sovereignty and territorial jurisdiction. It is also important to emphasise that all inter-government discourse and interaction was strictly limited to the Western powers to the exclusion of the rest of the world during the 19<sup>th</sup> and early 20<sup>th</sup> centuries, when traditional international law was developed.<sup>46</sup> Any practice of global citizenship during that period was necessarily imperialistic and hegemonic, which defeats the purpose.

Theoretical reflection and political developments continued during the first half of the 20<sup>th</sup> century around such issues as "the possibility of a federal world structure" and "the role of the individual *qua* world citizen."<sup>47</sup> For example, in a 1918 article, Orrin McMurray argued that the mobility of people from one nation to another required that a "citizenship in a world state" be cultivated which had a federal-like relationship to the nation-state that is analogous to the relationship of a state with the Union within the United States.<sup>48</sup> Drawing on a sense of the weakening of the traditional relation between the sovereign and subject, and the declining relevance of national citizenship due to an increasing global mobility, it was debated almost a century ago whether the world was entering into a post-national age, raising the possibility of layered citizenship.<sup>49</sup>

With renewed determination to establish and secure a peaceful and stable world order after the Second World War, a wide range of politicians, educators, scientists and other opinion leaders participated in the global citizenship discourse.<sup>50</sup> For example, Mary E. Woolley argued for world citizenship to be cultivated through education to enlist the power of thought and spirit to "inspire human attitudes."<sup>51</sup> In 1944, J. Alvarez del Vayo, who was also the Foreign Minister of Republican Spain appealed to the concept of global citizenship and the

rights and responsibilities it entails.<sup>52</sup> A group of scientists that included Albert Einstein and J. Robert Oppenheimer made similar appeals out of concern for the threat of the atomic bomb.<sup>53</sup> Therefore, although due more to pragmatic global security issues, than to a sense of universal human rights or similar virtuous ideals, World War II engendered an unprecedented discourse on global citizenship. Although the UN was seen as a step in the right direction, it was not believed to be enough.

By 1950, the World Movement for World Federal Government had member groups in 22 countries and an estimated 156,000 members.<sup>54</sup> While such initiatives and efforts declined with the onset of the Cold War, the end of that era also reinvigorated the discourse on cultivating both a moral, social and political sense of Global Citizenship. In this most recent phase, there was a paradigm shift away from a world government (likely federal in form) toward "the concept of global governance and the proposals for reform of existing institutions to promote greater accountability to the people of the world."<sup>55</sup> Global governance consists of the multiplicity of international and regional bodies, business corporations, non-governmental organisations and social movements. Another theme that is leading to linking calls for global citizenship to demands for global governance has been an increased consciousness of global environmental problems.<sup>56</sup>

## 6 GLOBAL CITIZENSHIP IN CURRENT DISCOURSE

The contemporary discourse on global citizenship is approached by scholars and politicians from widely divergent perspectives. For instance, one approach seeks to cultivate global citizenship through "a global market, run in accordance with rules set by global bodies, in which individuals act primarily as entrepreneurs and consumers."<sup>57</sup> Proponents of this view argue that the economy is becoming increasingly denationalised and more global through such mechanisms as the World Trade Organization. They cite such facts as concrete evidence in support of

<sup>45</sup> CARTER, *The Political Theory of Global Citizenship*, 51.

<sup>46</sup> *Ibid.*, 69.

<sup>47</sup> D. HEATER, *World Citizenship and Government: Cosmopolitan Ideas in the History of Western Political Thought*, (St. Martin's Press: New York, 1996), 139.

<sup>48</sup> O. K. McMURRAY, "Inter-Citizenship: A Basis for World Peace," *The Yale Law Journal* (Vol. 27:3 Jan., 1918), 299–316, at 313.

<sup>49</sup> *Ibid.*, 306.

<sup>50</sup> D. HEATER, *World Citizenship and Government*, 139.

<sup>51</sup> M. E. WOOLLEY, 'Progress, Man's Distinctive Mark Alone,' Address given before the National Education Association Convention, New York City, 27 June 1938 in *Vital Speeches of the Day*, Vol. 4:21, 656.

<sup>52</sup> J. ALVAREZ DEL VAYO, 'The Duties of World Citizenship,' *Nation* (21 October 1944, Volume 159:17), 500.

<sup>53</sup> The 'One World or None' report of 1946, <http://users.cyberone.com.au/myers/one-world-or-none.html>, viewed 24 January 2006.

<sup>54</sup> 'World Government', Wikipedia.org, [http://en.wikipedia.org/wiki/World\\_government](http://en.wikipedia.org/wiki/World_government), viewed 30 January 2006.

<sup>55</sup> CARTER, *The Political Theory of Global Citizenship*, 145.

<sup>56</sup> D. HEATER, *A Brief History of Citizenship*, (Edinburgh: Edinburgh University Press, 2004), 110.

<sup>57</sup> CARTER, *The Political Theory of Global Citizenship*, 150.

this approach, advocating an increased liberalisation of trade, thus minimising the role of nation-states in economic relations.<sup>58</sup>

Another aspect of the current debate relates to the role of the nation-state as both an obstacle and mechanism for the realisation of a legal conception of global citizenship. Some point to the earlier mentioned paradox of state self-regulation to argue for defining citizenship through a clearer statement of the individual's relationship to supra-state machinery. In other words, this view calls for moving away from the present community of states acting in their own interests as states, instead of fulfilling their role of protector and guarantor of global citizenship rights.<sup>59</sup> It is also noted that the growing importance of the supra-national authority on human rights treaties and institutions is paradoxical in relying on state agencies to control and guide themselves in the absence of an international agency which has the right to "interfere in internal affairs."<sup>60</sup>

Rather than seeking to realise global citizenship rights through a global governmental body, some scholars argue for shared sovereignty, whereby a legal conception of global citizenship can coexist with the nation-state if nation-states would "pool their sovereignty in common institution and norms."<sup>61</sup> From this perspective, it may be possible to determine an alternative to totally integrated shared sovereignty that has proven elusive so far. It may then be possible to get closer to a legal and political global citizenship through a layered structure of multiple or overlapping citizenships. One possibility is "regional" citizenship which would foster both social development and civil rights as well as security by linking states together into "core (prosperous), intermediate, peripheral (developing) regions."<sup>62</sup> As noted earlier, the European Union seems to be heading in this direction of regional citizenship that coexists with traditional national citizenship.

This sense of layered citizenship is linked to the widespread entry of transnational migrant communities into the public sphere, long-distance nationalism, the rise of dual national identities and the emergence of cross-border civic and political communities as well as multilateral institutions and regional integration in Europe. From a theoretical point of view, a broad approach to transnational or layered citizenship ascribes citizenship to any of the multi-level processes through which social, civic and political actors claim rights in the transnational public sphere. This view is consistent with an understanding of citizenship as allowing for a plurality of identities beyond the nation-state. Through a broad approach to

<sup>58</sup> General Agreement on Trade Services, in *Juris International-World Trade Organization*, <http://www.jurisint.org/pub/06/en/doc/25.htm>, viewed 27 January 2006.

<sup>59</sup> B. BOWDEN 'The Perils of Global Citizenship,' *Citizenship Studies*, (Vol. 7, No. 2, 2003), 130.

<sup>60</sup> N. YUVAL-DAVIS, 'The Multi-Layered Citizen: Citizenship in the age of 'glocalization,' *International Feminist Journal of Politics*, (Vol.1, No. 1, June 1999), 128.

<sup>61</sup> G.C.R. IGLESIAS, 'Global Citizenship,' 8.

<sup>62</sup> B. HETTNE 'The Fate of Citizenship in Post-Westphalia,' *Citizenship Studies* (Vol. 4, No. 1, 2000), 44.

citizenship, people's membership in a state, and their rights and responsibilities there, are mediated by their membership in other collectivities and polities, within, across or beyond a state, as well as such other identities such as class, gender, age and sexuality. In contrast, a narrow approach would limit the definition of transnational citizenship to those migrants who manage to sustain or create dual or multiple national identities. It is true of course that this is not the same as being a citizen,<sup>63</sup> but the question I am raising is *why not?*

Along with the Kantian cosmopolitan view, some scholars have argued for an approach to global citizenship that is based much more on morality and education, than on legality or international governmental institutions.<sup>64</sup> The underlying tenets of this cosmopolitan educational approach to global citizenship are individualism, universality and generality. According to this view, the first tenet is that the primary unit of concern is the individual rather than families, ethnic, cultural or any other sub-groupings nation or states. Proponents of this view also see that the tenet of universality is that the primacy of the individual as the central unit of concern is afforded to all human individuals without exception. The third tenet of generality or the Golden Rule principle is the belief that the primary concern for every individual extends to all humanity. One's concerns for others does not stop at the border, nor is it a privilege of only those who share one's own race, religion or other features held in common.<sup>65</sup>

Human rights as well as global environmental concerns have also been used to cultivate an abstract, psychological sense of world citizenship through liberal education that makes students citizens of the world, who can interact competently and respectfully with people and cultures from around the globe.<sup>66</sup> This requires the capacity to cultivate a shared sense of humanity and thus global citizenship through critical reflection on oneself and one's traditions; and to look beyond local identity as a citizen of a particular country into becoming a human being who is bound to all other human beings by ties of recognition and concern, which requires the ability to understand the world from the point of view of the others.<sup>67</sup>

As to be expected, the idea of global citizenship as well as the various approaches to realising it have been subject to considerable criticism. One line of criticism argues that true citizenship entails not only rights but political duties and responsibilities such as participation in "lawmaking" or engagement in polit-

<sup>63</sup> J. FOX, 'Unpacking Transnational Citizenship,' *Annual Review of Political Science* 2005, 175–76.

<sup>64</sup> T. PFISTER, 'Citizenship and Globalization, Review Essay,' in S. CASTLES and A. DAVIDSON, *Citizenship and Migration: Globalization and the Politics of Belonging*, (London: Palgrave, 2000).

<sup>65</sup> B. BOWDEN, 'The Perils of Global Citizenship,' 354.

<sup>66</sup> M. FRIEDMAN 'Educating for World Citizenship,' *Ethics* (Vol. 110:3, 2000), 586–601.

<sup>67</sup> M.C. NUSSBAUM, *Cultivating Humanity: A Classical Defense of Reform in Liberal Education*, (Cambridge, MA: Harvard University Press, 1997), 9–11.

ical debate at some level.<sup>68</sup> Since citizenship implies a "determinate relationship to a political community," the idea of being a "citizen pilgrim" or perhaps a person who can *identify* with a variety of nation-states should not be considered citizenship. From this perspective, while a global civil society can be cultivated through transnational interaction and a shared sense of human rights as well as through global economic interdependence, to call this global citizenship would dilute an "immensely valuable achievement."<sup>69</sup>

Another criticism of the above-mentioned theories and approaches to global citizenship is that they presume a shared cultural, social and moral compass. Given the rich and enduring diversity of human cultures and traditions, whose conception of justice and reason is to be the standard to be applied? Since the consciousness of a global citizen cannot be the sum total of all of the existing ethnic, national and cultural identities, how is that consciousness to be imagined? Why should it be assumed that such questions are to be answered from a liberal-democratic Western perspective, as if is the ideal model to which all other aspire, or the centre toward which they are drawn?<sup>70</sup> To another critic, global citizenship in terms of cosmopolitanism is necessarily based on such a generalised concern for an abstract humanity which is not sufficient for inspiring true human solidarity.<sup>71</sup> Another argument against the cosmopolitan-moral underpinnings of global citizenship is their lack of specificity: "if an individual has obligations to everyone, which are impossible to fulfil, then this may suggest a lack of specific obligation to anyone."<sup>72</sup>

While accepting the value of such criticisms in clarifying and developing the meaning and implications of global citizenship, I do not find them sufficient for discarding this powerful concept. For instance, it is indeed possible and desirable to insist on the mutuality of rights and duties of global citizenship or devise mechanisms of accountability at regional and global levels. In other words, the need for 'law-making' and political participation is no longer limited to so-called national territorial entities, and the practical means for doing so can be devised. The challenge is to our imagination and political will to realise this, as it has been realised in the transition from city to 'national' citizenship, rather than an inherent inability of the concept to operate beyond those historical boundaries.

<sup>68</sup> D. MILLER 'Citizenship and Pluralism,' *Political Studies*, (Vol. 53, 1995), 448.

<sup>69</sup> N. DOWER, 'The Idea of Global Citizenship: A Sympathetic Assessment,' *Global Society: Journal of Interdisciplinary International Relations*, (Vol. 14: 4 2000), 556; D. MILLER, 'Bounded Citizenship,' in K. HUTCHINGS and R. DANNREUTHER, editors, *Cosmopolitan Citizenship*, (London: Macmillan, 1998), 79.

<sup>70</sup> B. BOWDEN, 'The Perils of Global Citizenship,' 358.

<sup>71</sup> R. PINSKY, 'Eros Against Esperanto,' in J. COHEN et al., *For Love of Country*, (New York: Beacon Press, 2002), 85.

<sup>72</sup> CARTER, *The Political Theory of Global Citizenship*, 171.

Drawing on the earlier framing of the relevance of Islam to human rights, and the preceding discussion of citizenship in historical and current discourse, I now turn to considering the present situation of Muslims in Europe. As indicated earlier, I will use this case to illustrate the argument I attempted to develop earlier about the synergy and mutual support of the universality of human rights and global citizenship. To place the issues in context, I begin by presenting a demographic profile and socio-economic overview of the Muslims in Europe in section 7, next. Drawing on that and all preceding sections of this lecture, section 8 will be devoted to a discussion of whether or in what ways can the dialectic of the universality of human rights and global citizenship be applied in this case. Once again, however, I recall that *caveat* from the outset that the situation of Muslims in Europe is used to illustrate my argument without implying uniformity among Muslims or ascribing guilt to European societies or segments thereof.

## 7 DEMOGRAPHIC PROFILES AND PUBLIC PERCEPTIONS OF MUSLIMS IN EUROPE

There are over 16 million Muslims who live in Europe, as citizens, legal residents and migrant workers. Islam is the second largest religion in almost every European state.<sup>73</sup> Except in the Balkans, most Muslims have immigrated to European cities. But because of different immigration patterns, the Muslim population in European state reflects different demographic features, including varieties of ethnicities, languages and cultures. While I am unable to discuss here underlying issues of immigration in the situation of Muslims in Europe, this connection can be appreciated from the following brief review of the demographics of Muslim populations in a small sample of European countries, in alphabetical order.<sup>74</sup>

There are approximately 400,000 Muslims in Belgium, out of a total population of 10.3 million. Although Belgium had virtually no connection with the Muslim world during the colonial period, Muslims began emigrating to Belgium since the 1960s under labour migration agreements first with Morocco and Turkey and later with Algeria and Tunisia. In 1974, Belgium imposed strict conditions on the entry of foreign labour, but continued to have one of the most liberal policies in Europe for family reunion. Currently, there are about 125,000 individuals of Moroccan descent in Belgium; 70,000 are Turkish; 8,500 come from Algeria, and 4,000 are Tunisian. There are also small numbers of Muslims from Bosnia-Herzegovina, Pakistan, Lebanon, Iran, Syria and Egypt. Since approximately 35 percent of the Turkish and Moroccan communities are under the age of 18,

<sup>73</sup> 'Muslim Population Statistics,' compiled by the Canadian Society of Muslims, available at <http://muslim-canada.org/muslimstats.html>.

<sup>74</sup> This information is taken from <http://bbc.co.uk/1/h/world/europe/4385768.stm>.

compared to 18 percent of the native Belgian population, there is a high proportion of Muslim youths, particularly in certain areas. It is estimated, for example, that 25 percent of individuals under the age of 20 in Brussels are Muslims.

Between 1985 and 1997, approximately 113,842 Muslim immigrants had acquired Belgian citizenship. Belgian immigration laws were liberalised in 2000 so that anyone born in Belgium or anyone with at least one Belgian parent or anyone who had resided in Belgium for at least seven years could become a citizen. Those who have been in the country for over three years must fulfil a language and cultural requirement to qualify for citizenship. Islam is one of seven recognised religions in Belgium, which entitles Muslim religious organisations to a number of subsidies and resources from the government. Unemployment and poor housing, however, have been causes of concern for Belgian Muslims.

With a total population of 62.3 million, France is home to approximately 5 to 6 million Muslims, representing 8 to 9.6 percent of the population, making it the largest Muslim population in Western Europe. French Muslims are largely of North African descent from the former French colonies of Algeria (approximately 1.5 million), Morocco (approximately 1 million) and Tunisia (about 350,000). There are also about 100,000 Muslims from various Arab countries, 315,000 from Turkey, 250,000 from sub-Saharan Africa, 100,000 from Asia, and approximately 40,000 French converts. According to government statistics, the large bulk of Muslims in France are citizens.

French immigration policies are based ideally on the principles of equality for all backgrounds and the expectation that immigrants will integrate into French society. From WWII through the 1970s, French immigration policies were more liberal, accepting immigrant workers to support the national economy. But with the widespread economic difficulties of the 1970s, immigration policies became more restrictive in the belief that immigrants were partly to blame for employment problems in France. In an attempt to address these issues, France entered into agreements with the main countries of origin of immigrants to provide social and political services and develop policies to encourage immigrants to return to their native countries. As those policies failed to produce the desired results, more restrictive laws were passed in the 1980s and 1990s to reduce and reverse immigrant flow. In accordance with European Union policies, many of these restrictive policies were softened and revised to prevent discrimination. But after the terrorist attacks of 11 September 2001 in the United States, France again returned to more restrictive immigration laws, including a law that makes it easier to deport individuals who "have committed acts justifying a criminal trial" or whose behaviour "threatens public order."

It is perhaps relevant to note here the French conception of secularism (*laïcité*) that limits religious freedom with an active pursuit of secular orientation in all state activities. This concept has had a particularly significant impact on Muslims

in France, as seen in the ban on religious symbols, including the Muslim headscarf (hijab), in public schools, which led to rioting and protestation from French Muslims. This debate, of course, highlights the tension between public policy and private choices, between the concept of *laïcité* and the aspirations of Muslim students and their families to express their Islamic identity as French citizens.

There are more than 3 million Muslims in Germany, constituting about 3.6 percent in the country's total population of 82.5 million. The majority of Muslims (about 70 percent) in Germany are of Turkish origin, and most of them continue to maintain strong links to Turkey. A number of Muslims, who were relatively secular, also emigrated to Germany from Iran in the beginning of the 1980s. In addition, during the Balkan wars of the 1990s that followed the break-up of the former Yugoslavia, approximately 300,000 Muslims from Bosnia-Herzegovina, Albania and Kosovo have fled to Germany. The majority (65 percent) of German Muslims are Sunni, but there are also notable populations of Alevites, Imamites and Turkish Shiites. The pattern of immigration of Muslims to Germany can be traced back to the country's serious need for labour after WWII. As a result, large numbers of immigrants, including Muslims, were allowed to enter Germany for temporary stays as "guest workers" who were expected to return to their homelands.

The founding of German nationhood in the 19<sup>th</sup> century on German decent (*jus sanguinis*) on the premise of *Volksgeist* or spirit of the people as an organic cultural and racial entity marked by a common language, reflected strong opposition to the social integration of culturally different individuals and groups. This principle was embodied in the first codification of the law of national citizenship in 1913, which was affirmed by the Basic Law (constitution) of the Federal Republic in 1948 and remained in force until 1999. The clear contrast between the German Volk-centred and French state-centred conception of citizenship reflect the different historical context in which the concept emerged and evolved in each country.<sup>75</sup> For our purposes here, this difference confirms the historical and contextual contingency of conceptions of citizenship among European societies. Another indication of this fact is indicated by the recent change in the German conception, as embodied in the new citizenship law (*Staatsangehörigkeitsrecht*) in May 1999 that came into force on the 1 January 2000. This law retains the old basis of citizenship on ancestral origin, but adds two more grounds, namely, birth in the country (*jus soli* or "right of soil") and naturalisation. The requirements of naturalisation include legal residence for eight years, ability to support self and family and not having been convicted of a major felony, and renouncing previous

<sup>75</sup> BRUBAKER and ROGERS, *Citizenship and Nationhood in France and Germany*, (Cambridge, MA: Harvard University Press, 1992).

citizenship. This last requirement is subject to a good range of exceptions.<sup>76</sup> The point for us here is that the definition of citizenship can change in response to changing demographic, social and economic circumstances.

Germany allows for freedom of religion, but does not officially recognise some faiths, including Islam. Consequently, Muslims are not entitled to the privileges granted to believers in a recognised religion, like full independence in matters of employment, recognition of religious oath in a court of law, freedom to organise councils with religious hierarchy of authority, fiscal protection and exemption from real estate taxes on property designated as belonging to the public domain, or the right to receive a percentage of the national revenue based on tax payers' declaration of membership.

The Netherlands is home to about 945,000 Muslims, comprising 5.8 percent of the total population of 16.3 million. The first wave of Muslim immigrants came in the 1950s from the former Dutch colonies of Suriname and Indonesia. The Netherlands also has a substantial Somali minority, as well as labour immigrants from Turkey and Morocco in the 1960s. Traditionally, The Netherlands has had a very liberal immigration policy, but the government enacted new anti-terrorism laws and restrictive immigration laws after the 2004 murder of Theo Van Gogh. But even before 11 September 2001, there were concerns in The Netherlands about the failure of foreigners to integrate into Dutch society. There have been many efforts to teach Dutch language and culture to immigrants.

The Moroccan and Turkish governments exercise substantial control over religious matters in The Netherlands through an official Turkish organisation and a network of Moroccan social organisations. In contrast, there were no relations between Muslim communities and the Dutch state. That is consistent with the general severance of formal ties between the State and Religions in The Netherlands since 1983, where the constitutional principles of freedom of religion and non-discrimination are supposed to apply to ensure equal treatment for different religious groups. But this general policy seems to be changing for Muslims since the murder of Van Gogh which resulted in calls for the creation of a union of Dutch Imams to negotiate important issues with the state. Two new organisations were recently recognised by the state, CGI (Contact Groep Islam), which represents some 115,000 Muslims, and CMO (Contactorgaan Moslims en de Overheid), which represents 500,000 Muslims and is attempting to represent the entire population in The Netherlands.

Despite the general policy of no formal recognition of religious communities since the 1980s, the Dutch state continued to facilitate social or cultural activities of religious communities, such as schools, broadcasting and spiritual care in

<sup>76</sup> C. JOPPKE and E. MORAWSKA, 'Integrating Immigrants in Liberal Nation-States: Policies and Practices,' in JOPPKE and MORAWSKA (editors), *Toward Assimilation and Citizenship: Immigrants in Liberal Nation-States*. (London: Palgrave Macmillan, 2003), 1-36.

prisons and the army. There is generally no difficulty for Muslims to qualify for this status. For example, there are 37 Islamic primary schools and one secondary school in Rotterdam that started in August 2000, which are recognised and financed by the state. The courses offered must follow a national curriculum that fills most of the available time, while a few hours per week are allotted to weekly religious lessons and ceremonies. In public schools, which are governed by the municipalities, parents can organise religious lessons, which will fall outside the school's responsibility. This means that the parents have to find and pay the teacher. Muslim parents use this legal opportunity only in exceptional cases. Some municipalities (like Rotterdam), however, subsidise this activity. There are also some private institutions of higher education, like the Islamic University of Rotterdam (IUR) and an Islamic University of Europe in Schiedam as well as some smaller training institutes. There is also a four-year training programme in the Education Faculty of Amsterdam to train teachers for secondary schools.

The 43.1 million total population of Spain includes approximately 1 million Muslims (about 2.3 percent). After the long legacy of Islamic rule of much of Spain faded over time, Muslims began to arrive in significant numbers in the 1970s, mostly from the Spanish protectorate areas of northern Morocco and settled in Catalonia, working mainly in the tourism industry. At that time, many other European countries were instituting more restrictive immigration policies, leading many immigrants to settle in Spain. It is estimated that, by the end of the 1970s, there were approximately 100,000 Moroccans in Barcelona. Immigrants from Syria, Lebanon, Jordan and Iraq, who came as students and entrepreneurs, also accounted for the rising numbers of Spanish Muslims in the 1970s. By 1977, Spain was also home to Palestinian refugees and Iranian refugees after 1979. The 1970s also saw an increase in the number of converts to Islam, and there are currently about 6,000 Muslim converts in Spain. During the 1980s, the numbers of Spanish Muslims grew due to family reunification.

Spain provided to immigrants a set of rights and privileges that conformed to European standards. However, since 11 September 2001, there has been a trend towards more restrictive immigration laws, as well as tightened security at borders, airports, bases and embassies. In addition, individuals may be expelled for actions that are considered to be threatening to Spain's external relations or public order even if there are no concurrent criminal charges.

The United Kingdom has a long history of contact with Muslims since the European crusades in the Middle East of the 12<sup>th</sup> and 13<sup>th</sup> centuries, but the large current Muslim presence in the country is associated with British colonialism. In the late 1960s and early 1970s, the "Africanisation" policies in Kenya and Tanzania and forced expulsion from Uganda promoted an influx of highly skilled, middle-class, professionals from East Africa. Estimates indicate that of the 150,000 East African immigrants, 20,000 were Muslim, with roots in South Asia.

In April 2001, the British government conducted a decennial census, which included a voluntary question regarding religious affiliation. Based on the answers of about 92 percent of the population, there are currently approximately 1.6 million individuals practicing Islam in the UK, 2.7 percent of the total population of the country.<sup>77</sup> According to government statistics, British Muslims are the clear majority (52 percent) of non-Christian communities in the UK. The statistics also indicate that approximately 75 percent of British Muslims are of South Asian descent, primarily from Pakistan. About 11 percent of British Muslims are of a White ethnic group, and 6% of Black African descent, the majority from North and West Africa, especially Somalia. The April 2001 survey also indicates that 93 percent of Muslims in the UK were British citizens, the clear majority (about 46 percent) being born within the UK.<sup>78</sup> It is estimated that there are approximately 5,000 to 10,000 Muslim converts, mostly from the Afro-Caribbean communities. The survey also shows that immigrants from outside the South Asia region are Turkey (3 percent), Somalia (2 percent), Kenya (1 percent) and the former Yugoslavia (1 percent).

Traditionally, British political discourse has generally been inclusive and strongly supportive of multiculturalism, but that has been questioned by some, including prominent Muslim leaders, after the London bombings of 7 July 2005. There have also been some concerns about race relations and possible discrimination against British Muslims. Although the British government and media attempted to stay balanced, 500 suspected extremists were deported in the weeks following the attacks, and a sudden increase in hate crimes against Muslims immediately following the attacks.

As this brief review shows, despite the different origins and dynamics of Muslim immigration to various countries of Western Europe, there are also some common features. For example, the main underlying causes of Muslim immigration have either been colonial history, mainly in the cases of France and the United Kingdom, or the need for foreign labour for countries like Germany and The Netherlands. Political asylum has also been a common basis of immigration. Another common feature to note is how the immigration policies of different countries have responded to cultural tensions, security concerns as well as changing economic conditions. But there are two main features that are particularly relevant to our discussion. First, for most Muslims, especially second and third generation immigrants, whether citizens or not, the European country they now live in is the only home they have. They are as European as their neighbours, and

<sup>77</sup> B.A. ROBINSON, 'Religion in Britain and the Rest of the U.K.' (Ontario Consultants on Religious Tolerance, 19 February 2003), available at [www.religioustolerance.org](http://www.religioustolerance.org).

<sup>78</sup> National Statistics Online, based on April 2001 Census by the Office of National Statistics and General Register Office for Scotland; National Identity is based on the Labour Force Survey from June 2003 to May 2004; Religious Identity based on the Home Office Citizenship Survey 2001, all available at [www.stats.gov.uk](http://www.stats.gov.uk).

no longer people from another place who can "go home." The second important feature is that these Europeans commonly referred to as "Muslims" have much more in common with other Europeans than with each other. They are divided by ethnicity and race, culture, country or region of origin, and even in their beliefs as Muslims. It is therefore extremely misleading and unproductive to call them Muslims, as if that defines who they are as a coherent monolithic group, or sets them apart from their non-Muslim neighbours.

Yet, this irrational and grossly misleading perception not only continues, but seems to be rising as shown in the following review of public perception of Muslims in Europe, which would be particularly relevant to the theme of citizenship and human rights I am arguing for in this lecture. One *caveat* to note here is that, while the significant diversity of Muslims in Europe defies generalisations, it seems that they share some of the realities and experiences of other immigrants. For instance, unemployment rates for foreign-born individuals are more than twice as high as those for natives in virtually every European state. Thus, Muslims (and other immigrants) in most European states tend to remain towards the lower end of the socio-economic spectrum. It may therefore be helpful to consider the situation of Muslims in the wider context of the situation of minorities and immigrants in general.

The European Monitoring Centre on Racism and Xenophobia (EUMC) issued a report in 2003 on the attitudes of the majority populations towards immigrants and minorities.<sup>79</sup> According to the report, about half of the Eastern and Western European populations were resistant to immigrants, while resistance to asylum seekers was supported by less than 1/3 of the general population.<sup>80</sup> Approximately 1/4 of the general population was resistant to multiculturalism, concerns here relate to the existence of different religions and cultures which would eventually affect the stability of the majority culture. About 1/2 the population was resistant to diversity, and about 2 out of every 3 individuals favoured limits to multicultural society by limiting constant immigration and societal acceptance of minority groups. Preference for ethnic distance, that the majority should try to keep its distance from minority groups and try to avoid interethnic contact, was expressed by 1/5 of the general population. A growing minority of 1 out of 5 people in member states of the European Union favoured repatriation policies for legal migrants, who were actually entitled to stay in the country.

Within this broader framework, it seems that negative public attitudes toward Muslims in particular have been growing since the 1990s. The underlying causes of such attitudes are complex, often reflecting specific local or national dynamics.

<sup>79</sup> 'Majority Populations' Attitudes Towards Migrants and Minorities, Report for the European Monitoring Centre on Racism and Xenophobia (1 April 2003) (hereinafter "EUMC Report on Attitudes").

<sup>80</sup> EUMC Report on Attitudes, Report 1 at section 1.6.

But it is also reasonable to assume that current public perceptions of Islam and Muslims in Western Europe are influenced by the terrorist attacks of 11 September 2001 in New York and Washington, DC, 11 March 2004 in Madrid, and 7 July 2005 and 21 July 2005 in London. Other incidents that may have contributed to such public perceptions also include the murder of Theo Van Gogh in the Netherlands. Despite the large number of Muslims living in Europe for decades, the implication of this recent trend is that Muslims are outside the Western realm and incompatible with the Western way of life.

In the Netherlands, for example, anti-Muslim sentiment became apparent with the rise of Pim Fortuyn, a populist who characterised Islam as too socially conservative to integrate with traditionally liberal Dutch culture. Although Fortuyn was killed by an animal rights activist, not a Muslim, the anti-Muslim sentiment he generated has become a powerful force in Dutch politics. These attitudes did not seem to lead to a great deal of discrimination until the murder of provocative filmmaker Theo Van Gogh in 2004. Prior to his murder, Theo Van Gogh turned a high profile lens on the issue of the treatment of women in traditional Islamic society. His film *Submission* told the story of a Muslim woman forced into an arranged marriage in which she is seriously abused. The film was made with the help of Ayaan Hirsi Ali, a liberal Dutch-Somalian politician who escaped from an arranged marriage herself. Particularly controversial in the film were scenes of a semi-naked woman with marks from beating and verses from the Qur'an inscribed on her body. Similar simplistic charges of the purportedly 'inherent' contradiction between Islam and Western civilisation emerged most recently in the controversy over the publication of cartoons of the Prophet Muhammad in a Danish newspaper in September 2005.

This hardening of European public attitudes toward Muslims is documented, for example, in a report issued in November 2005 by the EUMC on the impact on Muslim communities in the EU of 7 July 2005 London bomb attacks. According to the report, although media outlets and government agencies attempted to remain neutral during initial reports of the attacks, "there was a distinct change in the kind of reporting, shifting to issues of integration and the radicalisation of members of the Muslim community in Britain" after it became clear that the attackers were all British nationals.<sup>81</sup> This trend then broadened into a debate on immigration, residency status and human rights legislation. In a Mori poll for the BBC, a notable 32 percent of the individuals interviewed thought that multiculturalism "threatens the British way of life" and 54 percent said that "parts of the country don't feel like Britain any more because of immigration."<sup>82</sup> There was

<sup>81</sup> EUMC Report on the Impact of 7 July 2005 London Bomb Attacks on Muslim Communities in the EU at 10, Section 1.2 (November 2005) (hereinafter EUMC Report on Impact of Bomb Attacks").

<sup>82</sup> At <http://news.bbc.co.uk/1/hi/uk/4137990.stm> (8 December 2005).

also an immediate increase in hate crimes against Muslims and other communities such as Sikhs.<sup>83</sup>

It should also be noted, however, that the British government has attempted to maintain a balanced position. On the one hand, it reacted to the London attacks, in part, by deporting 500 individuals, and British law has seen a stricter emphasis on security and immigration with an eye towards preventing and rooting out terrorism. On the other hand, the British government also has begun programmes to encourage Muslim communities in Britain to confront and root out extremism. According to Home Secretary Charles Clarke, "Tackling extremism is not something that can be done by Government alone... We look forward to continuing the dialogue with Muslim communities and supporting the work that they are undertaking."<sup>84</sup>

Outside the United Kingdom reactions were varied, but there are indications of rising Islamophobic and xenophobic rhetoric in various European countries. For example, in the Czech Republic, the non-parliamentary National Party issued a declaration in which it demanded the expulsion of all Muslims and closing of the borders.<sup>85</sup> The Danish People's Party also warned that there was a large group of Muslim fanatics in Denmark, and demanded more surveillance and tighter border controls.<sup>86</sup> On 16 July 2005, Philippe de Villiers, President of the Mouvement pour la France, spoke against the "progressive Islamisation of French Society," urging for stricter border control, checks on mosques and more investment in Muslim areas.<sup>87</sup> The CSU in Germany also has called for stricter regulation of immigration of Muslims, calling for policies that make it easier to deport Muslims and withdraw their German citizenship if they have been naturalised.<sup>88</sup> Ján Slota, the Chairman of the opposition party Slovak National Party (SNS) claimed that the London bombings gave "clear evidence that there was an undeclared war of civilisations between Christian European culture and Islamic extremism."<sup>89</sup> In Poland, articles such as "They Want Our Destruction," "Throw Muslims out of Poland?" and "New York, Madrid, London. Genocide of the 21<sup>st</sup> Century," appeared after the second bomb attacks in London (of 21 July 2005).<sup>90</sup>

<sup>83</sup> EUMC Report on Impact of Bomb Attacks, at pp. 13–26, Section 1.3.1.

<sup>84</sup> At <http://www.homeoffice.gov.uk/about-us/new/tackling-extremism> (10 July 2005).

<sup>85</sup> EUMC Report on Impact of Bomb Attacks at 36. See also [http://www.narodni-strana.cz/clanek.php?id\\_clanku=1349](http://www.narodni-strana.cz/clanek.php?id_clanku=1349) (10 April 2005).

<sup>86</sup> EUMC Report on Impact of Bomb Attacks, 37. See also [http://www.danskfolkeparti.dk/sw/forend/newsletterpreview.asp?id=236&template\\_id=3&mbid=19123](http://www.danskfolkeparti.dk/sw/forend/newsletterpreview.asp?id=236&template_id=3&mbid=19123) (8 January 2005).

<sup>87</sup> EUMC Report on Impact of Bomb Attacks at 37–38.

<sup>88</sup> *Financial Times Deutschland* (17 July 2005) and *Welt am Sonntag* (17 July 2005).

<sup>89</sup> See EUMC Report on Impact of Bomb Attacks at 38. See also *SME*, "SNS vyzýva na prehodnotenie liberálnej migračnej politiky," available at: <http://www.sme.sk/clanok.asp?cl=2289723> (25 July 2005).

<sup>90</sup> See EUMC Report on Impact of Bomb Attacks at 46. See also *Newsweek* (31 July 2005); *Polityka* (23 July 2005); and *Wprost, Special Edition* (17 July 2005).

## 8 MUSLIMS IN EUROPE OR EUROPEAN MUSLIMS?

The variation in the title of this lecture is intended to raise the question whether Muslims in Europe are accepted as citizens who happen to be Muslims, or is their religious affiliation emphasised to imply denying or diminishing their citizenship. In terms of the thesis I am attempting to advance here, I am suggesting that the concept of global citizenship can in fact promote and enhance traditional national citizenship. I also find that this conception of citizenship can benefit from the universality of human rights because the enjoyment of these rights should not be limited to the citizens of the country where a person happens to be. While legitimate legal and political distinctions between citizens and non-citizens should be maintained, that does not justify any violation of human rights norms, regardless of the citizenship status of the person. Indeed, the universality of human rights requires specific minimum standards in the treatment of non-citizens precisely because they are more vulnerable to the violation of their rights than citizens tend to be. Beyond these commonly accepted principles, the additional argument I try to advance here is that emphasising the linkage of universality of human rights and global citizenship should facilitate the granting of national citizenship while gradually diminishing the distinction between citizens and non-citizens. I will now highlight and reflect on the interaction or dialectic of national and European Union citizenship as part of the process of evolution toward global citizenship in accordance with the universality of human rights.

The idea of a 'nation,' as a people joined by common ties of shared descent, culture, religion, language and territory is an ancient concept.<sup>91</sup> It is also reasonable to assume that an association with permanent residence in a certain territory may well have been the rationale of emphasising membership in that community. But this does not mean that the nation is an inherent attribute of humanity, although "it has now come to appear as such."<sup>92</sup> Since it is "an imagined political community" in which members will never know most of their fellow members except in their minds,<sup>93</sup> the nation in the present usage of the term is necessarily a construction of human imagination. Moreover, the coincidence of a nation and the exclusive territory and jurisdiction of a 'nation-state' is primarily the product of late 18<sup>th</sup> and 19<sup>th</sup> centuries Europe. In other words, the idea of allocating a specific territory for members of a particular nation (defined by race, colour, religion, etc.) to the exclusion of all other persons and groups is much more recent in comparison to earlier conceptions of nation as social identity. It may therefore be helpful to consider the current progression from national to regional citizenship

<sup>91</sup> E. KEDOURIE, *Nationalism*, (Oxford: Blackwell, 1993).

<sup>92</sup> E. GELLNER, *Nations and Nationalism*, (Ithaca: Cornell University Press, 1983), 6.

<sup>93</sup> B. ANDERSON, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, (New York: Verso, 1991).

in the European Union as a step toward broader, overlapping conceptions, including a sense of global citizenship as an underlying principle that informs and guides practice at all levels.

The notion of a substantive form of "European citizenship" can be traced back to the Treaty Establishing the European Community (Treaty of Rome), which devoted the entire second part to this subject. But it was not until the Treaty on European Union (Maastricht) of 1992 that citizenship of the Union was formally established within the legal context of the community. As of 2006, every citizen of the Union has the following rights: to circulate and remain and live freely on the territory of all member states; to take part in elections to the European Parliament and in municipal elections in his/her place of residence; to benefit from diplomatic and consular protection by the authorities of all states of the European Union, and have access to extrajudicial recourse through a mediator; and the right to petition the European Parliament.<sup>94</sup> Still, this concept has been criticised for a "striking absence of rights that could trigger a more active concept of citizenship."<sup>95</sup> On the one hand, the weak representation of citizens in European Union institutions undermines the democratic legitimacy of the EU.<sup>96</sup> On the other hand, the lack of active citizenship is probably due to or reflection of the dependence of the EU on its nation-state members, including determination of who is an EU citizen and what that entails. Article 17 of the EC Treaty provides that EU citizenship is due only to persons holding the nationality of a Member State, which means that EU citizenship is "completely determined by rules outside the legislative procedures of the EU."<sup>97</sup>

This emerging concept seems disappointing because our purposes here include its failure to provide a framework for universal rights for a welfare state.<sup>98</sup> The Social Charter, for instance, was adopted only as a non-binding 'social declaration' of the European Council, and "references to *citizens* were replaced with references to *workers* to avoid the appearance of an expanded social policy mandate for the Community."<sup>99</sup> Integration was identified with deregulation and

<sup>94</sup> Official European Union Website, 21 February 2006, [http://europa.eu.int/comm/justice\\_home/unit/libre\\_circulation\\_en.htm](http://europa.eu.int/comm/justice_home/unit/libre_circulation_en.htm)

<sup>95</sup> N. PRENTOULIS, 'On the technology of collective identity: normative reconstructions of the concept of EU citizenship,' *European Law Journal*, (Vol. 7), 196–218, 198.

<sup>96</sup> J. BORJA, 'The citizenship question and the challenge of globalization: The European Context,' *City*, (Vol.4:1 April 2000), 43–52.

<sup>97</sup> U. K. PRUESS, M. EVERSON, M. KOENIG-ARCHIBUGI and E. LEFEBVRE, 'Traditions of Citizenship in the European Union,' *Citizenship Studies*, (Vol. 7:1, 2003), 5.

<sup>98</sup> S. LEIBFRIED, 'Towards a European Welfare State? On Integrating Poverty Regimes into the European Community,' in C. JONES, editor, *New Perspectives on the Welfare State in Europe*, (London/New York: Routledge, 1993), 150–51.

<sup>99</sup> W. STRECK, 'From Market Making to State Building? Reflections on the Political Economy of European Social Policy,' in S. LEIBFRIED and P. PIERSON, editors, *European Social Policy: Between Fragmentation and Integration*, (Washington D.C.: The Brookings Institution, 1995), 402–403.

political disengagement from the economy, and the intergovernmental character of the community was confirmed by the Single European Act. "A free European market, if this is all that is to be, does not 'require' a 'Europe of the citizen'; in fact, citizenship makes the market less 'free.'"<sup>100</sup> Another tension relates to the significant differences among member states of the EU in terms of geographic extension, population size, economic strength, religious and socio-cultural and the geopolitical role of states beyond Europe. These and other factors, like strong diversity in political attitudes and citizenship tradition, can make it harder to achieve agreement on expanding the rights and responsibilities of EU citizenship, as illustrated earlier regarding French and German conceptions of citizenship.<sup>101</sup>

Another instructive and relevant development relates to the proposed Constitution for Europe, which was rejected in both France and The Netherlands and is now under reconsideration, has the motto 'united in its diversity.' The draft explicitly addresses the dilemma of citizens belonging both to their member states and to the Union. Optimistically, the authors of the draft affirm their conviction that "while remaining proud of their own national identities and histories, the peoples of Europe are determined to transcend their ancient divisions and, united ever more closely, to forge a common destiny."<sup>102</sup> In reality, the concept of EU citizenship has proven a challenge to the political imagination of Europeans, including questions of transnational democracy, social policy, language and cultural relations. The whole EU process may have created the preconditions necessary for a relaxation of sovereignty, and the EU citizenship was never presented as a substitute for national citizenship, yet popular and institutional resistance to the idea of post-national politics remains strong throughout the region.<sup>103</sup>

In conclusion of this section, the human rights approach to citizenship I am proposing may be more appropriate for the "territorial state" of the 21<sup>st</sup> century in its global context, as opposed to the "nation-state" of the 19<sup>th</sup> and 20<sup>th</sup> centuries. The notion of national uniformity on the basis of ethnic, racial, cultural or religious identity is probably factually unfounded, especially under present conditions of demographic diversity and mobility of populations. That traditional notion of national uniformity can easily be manipulated to oppress minorities and dissident individuals in the name of unity and stability. European examples of this problem range from issues of long-term language and culture in sub-national politics to genocide of European Jews and other minorities in the mid-20<sup>th</sup> century in Nazi Germany and Bosnian half a century later. It seems clear to me that such

<sup>100</sup> *Ibid.*, 413.

<sup>101</sup> U. K. PREUSS et al., *Traditions of Citizenship*, 10.

<sup>102</sup> V. GISCARD D'ESTAING, G. AMATO and J.-L. DEHAENE, 'Draft Treaty Establishing a Constitution for Europe' (2004), [http://europa.eu.int/futurum/constitution/preamble/index\\_en.htm](http://europa.eu.int/futurum/constitution/preamble/index_en.htm).

<sup>103</sup> A. BEASLEY, 'Public discourse and cosmopolitan political identity: Imagining the European Union citizen,' *Futures*, (Vol. 38:2 2006), 133-145.

difficulties will probably persist as long as the notion of the 'heterogeneous nation' is maintained as the primary basis of citizenship of the territorial state.

Another dimension that is particularly relevant to the situation of Muslims in Europe is that the legacy of nationhood and citizenship does not seriously consider immigration as a basis of citizenship. The more serious consequences of this denial or lack of consideration of immigration as a factor in population policies underlies some of the bigoted stereotypical policies and attitude, which ranges from ranging from apathy to antagonism.<sup>104</sup> For example, in the federal state Baden-Wurtemberg, the ruling Christian Democratic Union party recently administered a 30 topic loyalty test for applicants to become naturalised citizens. The questions, which range from domestic issues such as women's rights, female attire to political issues such as 9/11, religious freedom, terrorism, which apparently target Muslim applicants in particular.<sup>105</sup>

## 9 CONCLUDING REMARKS

As indicated at the beginning, the limited primary focus of this lecture is to clarify the relationship between the universality of human rights and the concept and institutions of citizenship. The main premise of my analysis of synergy and mutual support between the universality of human rights and global citizenship is that citizenship is the basis of entitlement to rights, while rights secure the meaningful content of citizenship. The idea of conceptual and practical synergy and mutual support is necessary to mediate the apparent paradox that citizenship is both the means for protecting human rights and a limitation on the universality of these rights. If only citizens are entitled to rights like freedom of expression, opinion and belief, health care and education, how can these rights also be due to all human beings? The solution I propose for mediating this paradox is to think of two sets of overlapping entitlements: civil rights based on national citizenship and human rights based on global citizenship. The progression of the analysis I presented can be summarised as follows.

I began by outlining how the revolutionary idea of universal human rights was first declared in the Charter of the UN, elaborated the Universal Declaration of Human Rights, and then rendered binding under international law through a series of subsequent treaties. That is a good starting point to emphasise the sig-

<sup>104</sup> J. FIJALKOWSKI, 'Aggressive Nationalism, Immigration Pressure and Asylum Policy Disputes in Contemporary Germany,' *International Migration Review* (Vol. 27, No.4 Winter 1993), 850–869, 861.

<sup>105</sup> Ü. POLAT, 'Baden-Württemberg's Conscience Test Zeitgeist of Fear and Prejudice,' translated from the German by M. LAWTON, *Qantara*, 16 February 2006. [http://www.qantara.de/web-com/show\\_article.php/\\_c-478/\\_nr-402/i.html?PHPSESSID=44ca711f7ddf3941bc499326b5b87693](http://www.qantara.de/web-com/show_article.php/_c-478/_nr-402/i.html?PHPSESSID=44ca711f7ddf3941bc499326b5b87693).

nificant difference between civil rights that are due only to the citizens of the particular state and human rights which are due to all human beings everywhere. Yet, while supposed to be the standard for judging the protection of rights in every state or country, universal human rights can only be implemented in practice through the national constitutional and legal systems of states. This is what I referred to as the paradox of self-regulation by the state, namely, that the state is the legal entity bound to protect human rights against the excess or abuse of power by officials of the same state.

Given the critical and complex relationship of the two concepts, I have offered some overview discussion of citizenship and rights, followed by a review of historical and current debates about citizenship and global citizenship. One point to draw from that review in support of the thesis of this lecture is that while the idea of global citizenship is as old as the idea of citizenship itself, the restriction of this status to the territorial or nation-state is very recent. In fact, the evolution from citizenship of the city-state of the renaissance to that of the nation-state can logically lead to broader conceptions of citizenship in this age of global interdependence and diminishing territorial sovereignty. One difficulty with this possibility is the correspondence of the rights and obligations of territorial citizenship, whereby the entitlement to civil rights and social benefits is reciprocal to the obligation to pay taxes, serve in the national defence of the country and other public civic duties. This correspondence can also be seen in the organic relationship between territorial sovereignty and democratic constitutional governance.

It may be possible to negotiate these issues, as shown by the recent experience of the Western European societies with citizenship of the European Union. But that same process also demonstrates the difficulties of progression from national to regional identity and democratic self-governance. One way of easing these tensions is to suggest that, instead of seeing the issues in terms of drastic choice among various levels of citizenship, progress can be made for intermediate ideas of shared or overlapping sovereignty, whereby a moral and political conception of global citizenship can coexist with legal national citizenship, each applicable to its domain of rights and obligations.

In the final analysis, the dynamic role of the citizen in self-governance and other civic functions clearly indicates that citizenship in a democratic polity should be earned and not granted by an autocratic sovereign. Since this means that the Muslims in Europe must demonstrate their commitment to this concept of citizenship, it is important to clarify the sense in which Islam is relevant to this process by discussing the relationship between Islam and human rights. Recalling that human rights are about the right to be the same and the right to be different, the Muslims in Europe should be entitled to citizenship without having to abandon their religious identity. The demographic profile and inter-communal experiences of Muslims and other immigrant groups in Europe confirms the

need to facilitate greater inclusion and recognition as citizens. But Muslims and other immigrants must also be able and willing to accord the same entitlement to others. This is not to say that Islam as such is problematic from a human rights and citizenship perspective, but Muslims need to confront the challenges of Islamic reform to avoid historical difficulties in this regard.

I hope that I have raised enough interest in the possibilities of mutual support and synergy between the universality of human rights and global citizenship to encourage scholars and social activists to take this subject seriously despite its present conceptual ambiguities and political and social difficulties. This must also be done with a clear understanding of the protracted nature of social change, where regression is always part of progression. As we have seen in the intellectual history of the concept of citizenship in general, ideas can play a powerful leading role in the processes of social translation, but it is social movements and political organisations that eventually realise the promise of visionary ideas.

I conclude by expressing my profound appreciation for the high honour and privilege of holding the G.J. Wiarda Chair for the academic year 2005–2006. I realise that there are more colleagues to thank than I can name here. I wish to mention my senior colleague at the Netherlands Human Rights Institute (SIM) for proposing my name for consideration. In particular, I am grateful to Professor Cees Flinterman, the Director of SIM for supporting my candidacy. I am also grateful to Rector Magnificus and Board of Utrecht University, Professor John Vervaele and other colleagues at The Wiarda Research Institute of the School of Law, and the Faculty of Law, Economics and Governance.

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*The challenge of human rights: Muslim communities in Europe are also faced by the need to reform their internal legal structures in the area of family law taking into account the fact that all male Muslim Sharia Courts in Britain. The challenge for Islamic law recognition to these unofficial institutions has risen over the years and is the subject of debate in many European countries.*

<sup>1</sup> Professor Shabbir Azhar, A.K. Professor of Law, University of Warwick, Coventry, England and Professor of Law, University of Oslo, Norway.

<sup>2</sup> See a recent article on the subject by A. S. Ali & S. K. Ibrahim, 'The Challenge of Islam in Britain: International Law' (2005) 40(1) Journal of Islamic Law 321–347 (London: University Press Publications).

<sup>3</sup> See also A. S. Ali & S. K. Ibrahim, 'The Challenge of Islam in Britain: International Law' (2005) 40(1) Journal of Islamic Law 321–347 (London: University Press Publications).