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Minority Rights, Multiculturalism and EU Enlargement: the Case of Estonia*

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This article examines the process of EU enlargement and its impact upon ethnopolitics in contemporary Estonia. After discussing the construction of the post-communist state order within the context of emerging CSCE and CoE norms on minority rights, the author looks at how Estonia was able to reconcile its so-called 'ethnic democracy' with the EU Copenhagen criteria requiring the 'respect for and protection of minorities'. The author draws attention to the subsequent shift away from 'nationalizing statehood' in Estonia towards a new strategy of 'multicultural integration' (where 'multicultural democracy' is portrayed as the ideal end-point of the integrative processes currently underway). In conclusion, the author discusses some of the ambiguities surrounding the concept of 'multicultural integration'. Whilst deemed consistent with EU norms, it is argued that the meaning of this term remains vague and contested within an Estonian context. As a consequence, its relationship to existing Western models – and its applicability to post-Soviet Estonia – is still not entirely clear.

I. Introduction

The nationality question in contemporary Estonia has formed the object of considerable attention – both academic and political – over the past decade.[1] In the course of 1940 to 1991, Soviet policies of industrialization led to large-scale settlement by Russians and representatives of other Soviet nationalities. Consequently, the share of 'non-titular' nationalities in Estonia's population grew from its pre-war figure of 12 per cent to 39 per cent by 1989. When Estonia restored its independence in 1991, Soviet-era settlers and their descendants (around 30 per cent of the total population) were denied any

[1] A recent study has identified over two hundred books and articles devoted to this topic. See R. Ruutsoo, "Discursive Conflict and Estonian Post-Communist Nation-Building", in M. Lauristin and M. Heidmets (eds.) *The Challenge of the Russian Minority. Emerging Multicultural Democracy in Estonia* (Tartu: Tartu University Press, 2002): 35.

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automatic right to Estonian citizenship. The citizenship law of February 1992 granted this right only to citizens of the inter-war Estonian Republic and their descendants. Other residents wishing to obtain citizenship have had to undergo naturalization, a process which requires applicants to fulfil a three (subsequently five) year residence qualification, swear an oath of loyalty to the state and demonstrate a working knowledge of the Estonian language. As a result of Soviet nationalities policy, only 13 per cent of the Russian-speaking minority professed itself fluent in Estonian at the time of independence. In the period since 1989, the state has adopted a number of measures intended to re-establish the primacy of the Estonian language in all spheres of society following the *de facto* 'asymmetrical bilingualism' of the Soviet era. Using the terminology developed by Rogers Brubaker, a number of commentators have identified these measures as 'nationalizing policies' – i.e. policies designed to restore the primacy of a titular nation defined in ethno- cultural terms and distinguished from the citizenry as a whole. According to Brubaker, 'nationalizing statehood' has been the dominant mode of nation-building in all of the states that have emerged or re-emerged from the collapse of Yugoslavia and the USSR.[2] In Estonia and Latvia in particular the nation-state and democracy were presented as 'conflicting logics' in the aftermath of independence.[3] This remained the case to a large extent in 2001, insofar as 20 per cent of the population still lacked Estonian citizenship at this time.[4]

In the same period, Estonia has been notable for its dedicated pursuit of integration with European and Euro-Atlantic international organizations. Progress has been swift. A member of the Conference (later Organization) for Security and Co-operation in Europe (OSCE) since October 1991, Estonia joined the Council of Europe (CoE) in May 1993, and in 1998 became the first of the three Baltic States to be admitted to negotiations on European Union (EU) membership. It is now scheduled to join the EU in May 2004

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[2] R. Brubaker, *Nationalism Reframed* (Cambridge: Cambridge University Press, 1996): 4-5; for a depiction of Estonia in these terms, see especially the more recent works by Graham Smith e.g. *The Post-Soviet States* (London: Arnold, 1999): 80-83.

[3] On 'conflicting logics', see: J. Linz and A. Stepan, *Problems of Democratic Transition and Consolidation: Southern Europe, South America and Post-communist Europe* (Baltimore and London: Johns Hopkins University Press, 1996): 401-433.

[4] European Commission, *Progress Report Estonia* (Brussels: European Commission, 2002): 30. The report notes that 117,000 non-Estonians have been granted Estonian citizenship since the citizenship law came into force in 1992, with the rate of naturalization appearing to have stabiliszed at a low level of around 2 per cetn (3000 to 4000 persons) of resident non-citizens per year.

following the recent Copenhagen European Council. This pursuit of integration, however, has necessarily entailed the acceptance of external constraints over the state-building process. In what follows, I examine the nexus linking EU conditionality to domestic debates on national minorities. First, I consider how Estonia has been able to reconcile its controversial nationalities policy with the EU 'Copenhagen criteria' relating to guarantees of democracy and respect for and protection of minorities. Most authors would assert that the quest for EU membership and – most notably – the receipt of a positive *avis* from the European Commission in 1997 have brought about a fundamental change in approach. In this regard, the hitherto prevalent 'nationalizing' (and exclusionary) ideology has given way to a new discourse of 'emerging multicultural democracy', which is in turn deemed consistent with EU norms.[5] Having examined this shift, I conclude by discussing the extent to which current prescriptions for minority rights in Estonia can be deemed appropriate to the situation which currently obtains there.

II. The European Context

The current process of EU enlargement has taken shape within the context of what has been termed the western 'project' towards the post-socialist East.[6] This project is founded on the contention that the only viable course open to the former communist countries is to adopt the political values and economic system of the West. Or, as Graham Smith perhaps more accurately terms it, on the maxim that "what is good for Europe and the West is good for the world".[7] The proven track record of the EU in terms of inculcating stability and greater prosperity in post-war Western Europe has meant that it has exerted considerable 'pull' towards the peoples of Central and Eastern Europe (CEE). Whilst the 'New' Europe is ostensibly an 'economic, political and philosophical

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[5] Lauristin and Heidmets (eds.), *The Challenge of the Russian Minority;* see also V. Pettai, "Estonia and Latvia: International Influences on Citizenship and Minority Integration", in J. Zielonka and A. Pravda (eds.) *Democratic Consolidation in Eastern Europe. Vol. 2 International and Transnational Factors* (Oxford: Oxford University Press, 2001): 257-280.

[6] K. E. Smith, "Western Actors and the Promotion of Democracy", in Zielonka and Pravda (eds.) *Democratic Consolidation in Eastern Europe*: 31-57. On EU enlargement as an 'order-building project', see also P. Aalto, "Post-soviet Geopolitics in the North of Europe", in M. Lehti and D. J. Smith (eds.), *Post-Cold War Identity Politics. Northern and Baltic Experiences* (London: Frank Cass, 2003)

[7] G. Smith, "Transnational Politics and the Politics of the Russian Diaspora", *Ethnic and Racial Studies*, 22 (3). May 1999: 515; see also G. Smith, *The Post-Soviet States*: 2 for a discussion of the nature of Western influence.

programme' rather than a geographical concept, the eastward projection of EU influence has in practice involved the drawing of new boundaries between, on the one hand, CEE 'insiders' and, on the other, the 'outsiders' of the Commonwealth of Independent States (CIS). This division has in turn done much to condition the nature and degree of international influence upon the former communist states.[8] In this regard, the three Baltic States have of course been classed as Central European states rather than 'Former Soviet Republics' following the restoration of their independence, and have thereby been included amongst the ranks of the prospective EU member states. Whilst all are in practical terms former Soviet republics, the forcible nature of their incorporation into the USSR during 1940 meant that they had never been legally recognized as such by the democratic states of the West. Having condemned the events of 1939-40 as an illegal annexation, Western European governments never gave *de jure* recognition to Soviet rule over the three Baltic states. Rather, they continued to regard them as independent countries under occupation by the USSR. Indeed, back in 1979, the European Parliament voiced support for demands – voiced by dissident and émigré circles – that the Baltic case be examined within the committee for decolonization of the United Nations.[9] In accordance with this doctrine of legal continuity, the parliament of the Estonian Republic simply called upon longer-established states to restore diplomatic ties when it declared immediate separation from the USSR in August 1991. International recognition was duly obtained upon this basis.

The political and economic conditionality laid down within the Copenhagen criteria and the terms of the *acquis communautaire* has provided the EU with a powerful instrument for shaping the process of transition in the prospective member states of CEE. However, the degree of engagement has shown considerable variation according to country and issue area. In the latter regard, the political facets of 'Europeanization' have been far less clearly defined than the economic.[10] This is perhaps nowhere more apparent than in the sphere of minority rights. Here, the EU has relied on mechanisms developed under the auspices of the OSCE and the CoE. In 1995, the latter adopted the Framework Convention for the Protection of National Minorities (FCNM) – perhaps the most relevant

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[8] Lehti and Smith (eds.), *Post-Cold War Identity Politics*

[9] J. Prikulis, "The European Policies of the Baltic Countries", in P. Joenniemi and J. Prikulis (eds.), *The Foreign Policies of the Baltic Countries: Basic Issues* (Riga: Centre of Baltic-Nordic History and Political Studies, 1994): 92.

[10] See, for instance, J. Batt, "Introduction: Region, State and Identity in Central and Eastern Europe" in J. Batt and K. Wolczuk (eds.), *Region, State and Identity in Central and Eastern Europe* (London: Frank Cass and Co., 2002): 1-14.

standard pertaining to minority rights in Europe.[11]

The consistency of monitoring within this framework, however, has been undermined by the absence of any single agreed definition of the term 'minority', which, within the intergovernmental framework of the OSCE and CoE, remains subject to definition by individual states. In practical terms, moreover, both organizations have exhibited double standards as regards their approach to minority issues in the west and east of Europe.

The current European minority rights regime has institutionalized a state of inequality between existing Euro-Atlantic states and the post-communist states of CEE, a state of affairs which recalls the League of Nations' approach to the minority question after World War One.[12] Initial proposals for minority protection, discussed under the auspices of the Conference on the Human Dimension of the OSCE sought to establish a system which would be both universalist and far-reaching in scope. This approach argued for the promotion of positive rights rather than merely the prevention of discrimination. It also provided for the dispatch of missions of experts to designated states at the behest of other OSCE members and – under certain circumstances – without the consent of the state concerned. A similar challenge to state sovereignty was implicit in the creation, at the July 1992 Helsinki Summit, of an OSCE High Commissioner on National Minorities (HCNM), who can become involved in the affairs of a particular state at his own discretion and without the permission of the government concerned.[13] Pretensions to universalism were, however, undermined by the reluctance of Western OSCE states to consent to any dilution of their own sovereignty.[14] In the course of 1990-92, states such as France, Greece and the United States declared that there were no representatives of 'national minorities' amongst their populations, despite the existence of groups that could legitimately carry this label. Britain and Turkey, supported by Spain, subsequently insisted that the HCNM could not intervene where terrorism was involved,

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[11] Maria Fernanda Perez-Solla, "What's Wrong with Minority Rights in Europe", EUMAP, 6 November 2002. http://www.eumap.org/articles/content/91/916/index_html

[12] A. Burgess, "Critical Reflections on the Return of National Minority Rights Regulation to East/West European Affairs" in K. Cordell (ed.), *Ethnicity and Democratisation in the New Europe* (London: Routledge, 1999): 52; D. Chandler, "The OSCE and the Internationalisation of National Minority Rights" in K. Cordell (ed), *Ethnicity and Democratisation*, p.64.

[13] Chandler, op cit: 64

[14] Ibid: 61-76

thus taking the Irish, Kurdish and Basque questions off the international agenda.[15]

As part of their determination to avoid any far-reaching minority rights obligations, Western actors also managed to establish a clear conceptual distinction between, on the one hand, historically rooted 'indigenous' minority groups residing within their borders and on the other, communities of recent immigrants such as Turks, Kurds, North Africans and Asians. These latter groups have been designated under the label of 'ethnic'/'new'/'immigrant' rather than 'national' minority – which is to say that they are not deemed to have any "valid claim to language rights and self-government powers necessary to maintain [themselves] as a distinct societal culture."[16] As Will Kymlicka has observed, this distinction is valid insofar as most groups of recent immigrants to Western societies have not regarded it as desirable or feasible to pursue their own nation-building project. Typically, small and dispersed, they have traditionally "accepted the expectation that they will integrate into the larger societal culture. Few have objected to the requirement that they should learn the official language as a requirement for citizenship or that their children should learn it at school".[17] Kymlicka also reminds us that Western states have adopted a variety of practices towards their immigrant populations. In this regard, it is necessary to distinguish between 'immigrant minorities' – immigrants who have the right to become citizens – and 'metics' – immigrants, such as Turkish *Gastarbeiter* in Germany, who are not given the opportunity to become citizens. In a number of cases, such groups have settled more or less permanently in considerable numbers, yet remain excluded from the polis.[18] Kymlicka also discerns a significant change in policy towards settled 'immigrant minorities' in a number of Western states over the past 30 to 40 years. Whereas previously, the expectation – generally accepted – was that immigrants should assimilate themselves completely into the dominant societal culture, in recent times, immigrant minorities have sought to 'renegotiate' the terms of integration by calling for a more tolerant and multicultural approach. Many states, in

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[15] Ibid: 64

[16] W. Kymlicka, "Estonia's Integration Policies in a Comparative Perspective", contribution to A. Laius, I. Proos and I. Pettai (eds.), *Estonia's Integration Landscape: From Apathy to Harmony* (Tallinn: Avatud Eesti Fond and Jaan Tõnissoni Instituut, 2000). Accessed via web at http://www.jti.ee/et/hr/integratsioon/kymlicka_eng.html: 6; Chandler, op cit: 61-76. On the distinction between 'national' and 'ethnic' minority see also: W. Kymlicka, *Multicultural Citizenship* (Oxford: Oxford University Press, 1995): 10-14.

[17] Kymlicka, "Estonia's Integration Policies", op cit: 7; in a similar vein, Rogers Brubaker, op cit: 60; describes the term 'national minority' as "a dynamic political stance, or, more precisely, a family of related yet mutually competing political stances, not a static ethno-demographic condition".

[18] Ibid: 7-13

turn, have seen advantages in abandoning assimilation in favour of a model of 'immigrant multiculturalism'. Whilst this does not extend as far as measures designed to promote a separate societal culture, it nevertheless encourages immigrant groups to maintain their customs, and may incorporate some measure of language rights. A key tenet of this approach is that integration is a two-way process involving society as a whole. Just as immigrants are expected to adapt themselves to the dominant societal culture, so the larger society must adapt its own attitudes, institutions and practices in order to accommodate the identities of its immigrant citizens.[19]

States which adopt the latter approach can be termed 'polyethnic' rather than 'multinational'.[20] It was precisely the latter designation which many western OSCE member states were anxious to avoid at the start of the 1990s. Consequently, although OSCE norms have retained the principle that national minority issues are an international – rather than a purely domestic – concern, the discussions held by the organization in Helsinki during 1992 'made the OSCE claims to universal commitment ring hollow'. In practice, it became clear that the regulative power of the OSCE would be directed towards Eastern, rather than Western Europe. By 1992, the initial optimism underpinning the Western 'project' had been dispelled by the emergence of violent ethno-national conflicts within the territory of the former Yugoslavia and the USSR. These never turned into the epidemic that many anticipated, and have proved to be the exception rather than the rule where political transformation of multiethnic societies is concerned. Nonetheless, they did much to reinforce long-standing stereotypes of the East as a backward locus of tribal hatreds in need of education from the West. [21] It is this perception that does much to explain the preoccupation with minority rights in post-communist Europe. As David Chandler notes, this area has been treated primarily as a security, rather a humanitarian or cultural issue.[22]

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[19] Ibid: 7-10

[20] Kymlicka, *Multicultural Citizenship*, op cit: 10.

[21] Chandler, loc cit; Burgess, op cit: 54; A. Lieven, *The Baltic Revolution: Estonia, Latvia and Lithuania and the Path to Independence* (London: Yale University Press, 1993): 381. For further discussion of these attitudes, see H. Miall, O. Ramsbotham and T. Woodhouse, *Contemporary Conflict Resolution* (Cambridge: Polity Press, 1999): 90; D. Laitin, *Identity in Formation: The Russian - Speaking Populations in the Near Abroad* , (Ithaca and London: Cornell University Press, 1998): 19; J. Batt, "Dilemmas of Self-Determination in Central and Eastern Europe: Historical Perspectives on the Nation-State and Federalism", draft chapter for forthcoming work *'Fuzzy Statehood' and European Integration in Central and Eastern Europe* as part of the ESRC "One Europe or Several?" Programme (University of Birmingham, 2000): 2.

[22] Chandler, loc cit

By extension, the premium has been placed on stability, consolidation of state sovereignty and preservation of existing borders rather than the promotion of minority rights *per se*. One reason why existing OSCE member states were so reluctant to sanction a far-reaching policy based on positive rights was the fear that this might have a destabilizing effect on their own societies as well as those of the post-communist East. Thus far, for instance, the policies of European international organizations have eschewed the multinational paradigm of statehood in favour of a more limited conception of minority rights. As Graham Smith noted in 1999, the rights of minorities are "to be protected through the promotion of individual (as opposed to collective or group) rights. … There has been no call by the OSCE for the protection of multicultural rights based upon affirmative action policies, consociational political structures, recognition of local diasporic group rights or dual language policy".[23]

Similarly, with regard to EU enlargement, Karen Smith argues that signals put out by the West are confused. Issues of democratization and minority rights have not always been the priority as far as making decisions on enlargement is concerned – indeed, they have generally been secondary to stability, progress in economic reform and the degree of external support that a particular state can command.[24] In this respect, Estonia's progress towards the EU has rested upon its impressive track record in the field of economic transformation, which in turn has been an important factor in the preservation ethnopolitical stability. Although the ability to initiate radical economic 'shock therapy' during the early 1990s rested partly upon the political marginalization of the Russian-speaking settler population – widely, although perhaps mistakenly, tipped to be the biggest losers from the collapse of the soviet economy – it has been possible to discern an overarching consensus within society as far as the direction of economic development is concerned.[25] In terms of international support, Graham Smith observes that "the position of the Baltic States has been bolstered thanks not only to their Scandinavian 'friends at court', but also to their privileged place in the West's geopolitical imagination as culturally and politically nearer to Western Europe than the other post-Soviet states".[26]

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[23] G. Smith, "Transnational Politics", op cit: 515-516. This is in spite of an 'unusual' resolution of the OSCE Copenhagen Summit which stated that the use of appropriate local administrations corresponding to specific territorial circumstances is a legitimate means of protecting or promoting minority identity.

[24] K. E. Smith, loc cit; A. Pravda, "Introduction", in Zielonka and Pravda (eds.) *Democratic Consolidation in Eastern Europe*: 13-15

[25] See D. J. Smith, *Estonia. Independence and European Integration* (London: Routledge, 2001): 113-146.

[26] G. Smith, "Transnational Politics": 514

III. The Domestic Context

Above all, perhaps, the degree of receptivity to international influence is contingent upon the domestic political context and the nature of the pathway from authoritarian rule.[27] Similarly, in order to understand fully the relations between a state and its minorities it is necessary to pay attention to the historical context governing the particular case.[28] This said, it is still possible to draw general conclusions regarding the social and political conditions underlying the national question, and to draw them together into a general explanatory framework. In his own analytical framework, Rogers Brubaker asserts the primacy of 'nationalizing statehood': a civic or binational definition of the state, he claims, is unlikely to prevail, so pervasively institutionalized are understandings of the nation as ethnocultural rather than political.[29] This assertion would seem unduly categorical. A better starting point would be "to acknowledge the possibility that differing and overlapping forms of identities are in the making, which refuse to follow the totalizing contours of … essentialist theorizing".[30] As Judy Batt and Kataryna Wolczuk have suggested, post-communist debates on state and nation- building in Central and Eastern Europe have been permeated by the two themes of 'national self assertion' on the one hand and 'Europeanization' on the other. These, they see as analogous to the two themes of 'essentialism' and 'epochalism' which Clifford Geertz has used to frame the politics of national identity in post-colonial states.[31] An analysis of post-communist CEE suggests that ruling elites have been required to strike a balance between the two, both discursively and in terms of constitutional practice.[32]

In the case of Estonia, the experience of independent statehood between the wars – coupled with the special status accorded to the Estonian Republic within the USSR – meant that the concept of a 'Return to Europe' figured prominently in the discourse of the national movement from its very beginnings in the late 1980s. This was one element (albeit the most essential) of a broader discourse of Westernisation connoting claims to

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[27] Pravda, op cit: 15; Pettai, op cit: 257
[28] Brubaker, op cit: 103
[29] Ibid: 105
[30] G. Smith, *The Post-Soviet States*: 3
[31] J. Batt, "Introduction", loc cit; C. Geertz *The Interpretation of Cultures* (1973): 240-241
[32] On the place of Europe within nation-building debates in CEE/CIS states, see for instance: K Wolczuk, "History, Europe and the 'national idea': the 'official' narrative of national identity in Ukraine", *Nationalities Papers*, 28 (4) 2000; I. Pavlovaite, "Paradise Regained. The Conceptualisation of Europe in the Lithuanian Debate", in Lehti and Smith (eds.), *Post-Cold War Identity Politics*; see also O. Wæver, "Explaining Europe by Decoding Discourses" in A. Wivel (ed.), *Explaining European Integration* (Copenhagen: Copenhagen Political Studies Press, 1998).

membership of what could be termed the 'Euro-Atlantic Space'. There thus appeared to be a clear prospect that the West would be able to exert significant influence over Estonia and its neighbours.[33] Indeed, even Rogers Brubaker was forced to admit that in the case of the Baltic states, "external incentives … may favor transethnic state- and nation-building strategies, oriented to the citizenry as a whole rather than to one ethnonationally qualified segment of that citizenry".[34] At the same time, as Brubaker observes, 'nationalizing' programmes and policies enjoyed a strong appeal in Estonia and Latvia in the immediate aftermath of independence. In this regard, one could argue that the circumstances under which independence was recognized served to strengthen trends towards ethnonationalism. Although the status of the 'Russian-speaking population' had already begun to elicit international attention in the course of Estonia's campaign for independence, this issue did not prove to be an obstacle to gaining recognition in 1991. Recognition according to the doctrine of legal continuity, moreover, reinforced exclusionary discourses towards Soviet-era settlers. Post-communist debates on state and nation-building in Estonia have been heavily marked by the experience of Soviet nationalities policy over the preceding half century. As Brubaker demonstrates, the Soviet system institutionalized both the territorial/political and ethnocultural/personal modes of nationhood and nationality as well as the tensions between them.[35] Mass settlement by Russians and representatives of other 'non-Estonian' nationalities in Estonia during 1944 to 1989 became the focus of growing resentment amongst representatives of the 'titular' nation. Since Russian-speaking settlers and their descendants born in Estonia were under little or no compulsion to learn Estonian, the shifting ethno-demographic profile of the republic's population was deemed by many to raise the prospect of ultimate russification. From the early 1970s onwards, dissident tracts became increasingly ethno-nationalist in tone. Russian-speaking settlers were variously depicted as "colonists", "civil occupants", a "civil garrison of the empire" and "an ominous tumour in the body of the Estonian … nation".[36]

Concern at growing immigration was a factor which fuelled nationalism amongst all sections of 'titular' society. In 1988-89 the movement for independence was initially

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[33] L. Meri, *'ôiguste ja kohutuste tasakaal'*, speech on the occasion of Estonia's acceptance as a member of the Council of Europe, 13 May 1993, in Lennart Meri, *Presidendikõned*: 335; Pettai, op cit: 266

[34] Brubaker, op cit: 47

[35] Brubaker, op cit: 23-54; see also Laitin, *Identity in Formation*: 66-74.

[36] From the Baltic dissident journal Lituanus (vol. 22, no. 1, 1976): 65-71. Quoted in T. Parming, "Population Processes and the Nationality Issue in the Soviet Baltic", *Soviet Studies*, 32 (3). July 1980:403.

spearheaded by the more moderate Popular Front of Estonia (PFE), headed by nationalists drawn from the ranks of the soviet 'establishment'. Unlike the more radical dissidents, the PFE leadership viewed the size of the non-Estonian minority as a factor dictating caution. First in opposition and, from 1990 to 1992 in government, the PFE under its leader Edgar Savisaar pursued a moderate and pragmatic strategy predicated on mobilizing all residents of the Estonian SSR – regardless of ethno- cultural nationality – behind the campaign for independence. Pressure from the PFE was instrumental in the adoption of a new language law in January 1989. This established Estonian as the sole official language of the ESSR. However, it also incorporated extensive guarantees for the continued use of Russian in public life, and its implementation was preceded by widespread consultations with Russian-speaking work collectives. The caution exercised by the PFE and its nationally-minded fellow travellers within the Communist Party of Estonia reflected the emergence of opposition to the independence drive not only in Moscow but also locally in the form of the Internationalist Movement of the Working People of the ESSR and the United Council of Work Collectives. Having failed to mobilize the non-Estonian population through recourse to Marxist-Leninist ideology, these upholders of Soviet power sought to play the national card by warning of the dangers which independence would pose to the interests of what was termed the republic's 'Russian-speaking population'. As such, they denounced the language law as discriminatory and demanded the establishment of a new consociational-style system of government which would effectively have allowed Russian political representatives to veto any move towards independence.[37] The predominantly Russian-speaking cities of Narva and Sillamäe in north-east Estonia constituted a particular locus of opposition at this time. Here local authorities refused to implement legislation passed by the Supreme Council and later put forward demands for territorial autonomy within the Estonian republic.[38]

Most accounts of the period suggest that pro-Soviet elements never commanded the loyalties of more than a third of non-titulars. Contrary to the impression put out by the all-union Soviet media, Estonia's putative 'Russian-speaking population' was in fact deeply heterogeneous in terms of ethnic origin, political outlook and degree of integration

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[37] D. J. Smith, "Legal Continuity and Post-Soviet Reality: Ethnic Relations in Estonia 1991-95" unpublished PhD dissertation, University of Bradford, 1997: 69.

[38] For a more detailed discussion of developments in Narva, see D. J. Smith, "Narva Region within the Estonian Republic. From Autonomism to Accommodation?", in Batt and Wolczuk (eds.), *Region, State and Identity in Central and Eastern Europe*.

into Estonian society. From 1988, the Estonian national movement sought to accentuate this diversity by promoting the development of distinct identities on the part of Ukrainians, Belorussians, Jews and other smaller nationalities.[39] Even so, from the point of view of the PFE it was important to avoid any undue provocation which might be seized upon by the '*Intrid*' and their allies in Moscow. Throughout 1988 to 1991, Savisaar and his supporters therefore argued for a 'zero option' approach whereby citizenship of a future independent Estonia would be made available to all residents of the existing ESSR.[40] In the course of 1991, the PFE-led government also expressed a readiness to grant a form of territorial autonomy to north-east Estonia along the lines proposed by local leaders there. Whilst Savisaar's prescriptions for the state order in a future independent Estonia were seemingly rather vague, it seems certain that had citizenship been granted to all residents – and the PF government remained in power, some form of multi-nation state, structured along territorial federal/consociational/bilingual lines would probably have ensued.

In the course of 1989 to 1991, however, the pragmatic stance of the PF leadership was supplanted by a growing emphasis on legal restorationism. Since 1987, radical nationalist groups drawn from former dissident circles had been demanding an immediate and unconditional end to Soviet occupation and the legal restoration of Estonian independence. These radical groups, not least the unofficial 'Citizens' Committee' movement founded in 1989, came to command considerable moral authority amongst the titular population. The growing popularity of legal restorationism lay partly in the fact that it offered the most persuasive argument for independence in the face of the evident truculence of the Soviet central leadership. By the same token, it provided a rationale for denying political influence to the putative 'fifth column' of Soviet-era settlers. From the start of 1989, radical nationalist groups insisted that so-called 'colonists' had no right to a say in determining Estonia's future. Their political vision was predicated on the goal of restoring the Estonian nation-state which had existed between the two World Wars. In

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[39] D. J. Smith, "Legal Continuity", op cit.: 174. This is a strategy which has met with a fair degree of success. By 1993, the Union of National Minorities established by the Popular Front already incorporated 30 cultural societies representing 21 different minorities.

[40] Again, just prior to the August 1991 coup and declaration of independence, the Popular Front came out in favour of an 'option' variant whereby all citizens of the ESSR would be given a choice between taking Estonian or Soviet citizenship. Those opting for Estonian citizenship were to be granted it unconditionally. I. Rotov, "Kodakonsusest: Optsioon voi Naturalisasioon?", *Rahva Hääl*, 8 September 1991. In the wake of independence, the PFE proposed an ostensibly stricter draft based on naturalization, yet this contained a series of waivers which would have allowed virtually all settlers to obtain citizenship automatically.

this regard, they understood only too well that if Soviet-era settlers and their descendants obtained automatic citizenship and political rights, they would be well placed to press for a multinational 'third Estonian Republic' conceived as a successor state to the USSR.[41]

The 'philosophy of restorationism' espoused by the radicals gained even greater currency once international recognition was accorded on the basis of legal continuity of the first republic. For many members of the PFE, it seems, the commitment to zero option citizenship during 1988 to 1991 had owed less to conviction than it had to fear of a Russian backlash and/or ostracism by the West. When neither of these fears materialized, a number of prominent moderates simply defected to the restorationist camp in the months after August 1991. What emerged amongst Estonian political actors in the course of this nationalist 'bidding war' was a new consensus based on the need to secure the political hegemony of the titular nation within the restored state. This ensured the destruction of an inclusive draft law on citizenship tabled in November 1991 and heralded a shift towards the more restrictive legislation adopted in February 1992. Once the bottom line of excluding settlers from immediate political influence had been achieved, however, there was no consensus on a long-term policy towards the nationality issue. For the most radical wing of the national movement (what might be termed the 'decolonization' caucus), The naturalization of all, or even a considerable part of the settler population was deemed unacceptable, since it would inevitably prevent the restoration of an Estonian nation state. As such, settlers should be encouraged to leave Estonia and 'repatriate' themselves to their putative 'ethnic homeland' of Russia. The citizenship law of 1992 was conceived as the first step towards that end.[42] Other, more moderate /pragmatic voices, however, insisted that it was unrealistic to expect settlers to leave Estonia in large numbers, and that it was therefore necessary to find a way of accommodating them within the framework of the restored republic. This was all the more so given that the West was not about to acquiesce in radical – and potentially highly destabilizing – demands for a formal programme of decolonization, Cold War era adherence to legal continuity notwithstanding. As one of the key architects of the post-independence state order has argued, if Estonia

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[41] M. Laar, U. Ots and S. Endre, *Teine Eesti* (Tallinn, 1996): 175.

[42] Basing their argument upon Article 49 of the Geneva Convention, the most radical advocates of decolonization saw no reason why the civil representatives of Soviet colonial rule should expect treatment any more lenient than that which had been meted out at the end of the Second World War to German civilians who had settled in territories annexed by the Third Reich. CSCE Mission to Estonia, "Attitudes of the Political Forces in Estonia towards the Question of the Russophone Population (an outline)", 23 September 1994; V. Saarikoski, "Russian Minorities in the Baltic States", in P. Joenniemi and P. Vares (eds.), *New Actors on the International Arena: The Foreign Policies of the Baltic Countries*, Tampere Peace Research Institute Research Report, No.50, (Tampere, 1993), op cit: 135.

was to secure its 'return to Europe', it was necessary to find a 'third way' which would guarantee the legal continuity of statehood yet allow for a radical renewal of the constitutional order according to the principles of the late twentieth century.[43]

If one looks at the constitutional order established during 1991-92, it can indeed be regarded as a hard-fought political compromise which guaranteed the supremacy of the titular nation yet also incorporated a number of mechanisms for ensuring ethno- political stability and conformed – in strictly legal terms, at least – to European standards concerning the treatment of minorities. As Graham Smith noted back in 1994, the system that emerged bore all the hallmarks of a hegemonic control regime.[44]

More specifically, Smith described it as an 'ethnic democracy' – a system which "in combining some elements of civil and political democracy with explicit ethnic dominance, … attempts to preserve ethno-political stability based on the contradictions and tensions inherent in such a system."[45] There are three main facets to an ethnic democracy: first, it ensures that the titular nation possesses a superior institutional status beyond its numerical proportion within the state; secondly, it makes certain civil and political rights available to all; and finally, it accords certain collective rights to ethnic/national minorities.[46]

The system established in 1992 did bear a striking resemblance to this model. The status of Estonian as the sole official language of national and local government, first established under the 1989 language law, was enshrined in the constitution of 1992. The citizenship law of the same year established knowledge of Estonian as a criterion for naturalization as a citizen, whilst the parallel residency requirement ensured that settlers and their descendants would be unable to obtain citizenship in time to vote in the first post-independence elections of September 1992. With an electorate that was now 90 per cent ethnically Estonian – as opposed to 65 per cent two years earlier – it was hardly surprising that the new 101 member parliament (*Riigikogu*) consisted entirely of

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[43] M. Lauristin, "Kommentarid", in *Kaks Otsustavat Päeva Toompeal (19-20 August 1991)* (Tallinn, 1996): 81

[44] 'Hegemonic control' has been defined as a system of "coercive and/or co-optive rule which successfully manages to make unworkable an ethnic challenge to the state order" J. McGarry and B. O'Leary, "Introduction: The Macro-Political Regulation of Ethnic Conflict", in McGarry, J. and O'Leary, B. (eds.), *The Politics of Ethnic Conflict Regulation* (London, 1993): 23

[45] G. Smith, A. Aasland and R. Mole, "Ethnic Relations and Citizenship"', in Graham Smith (ed.), *The Baltic States: The National Self Determination of Estonia, Latvia and Lithuania* (Basingstoke: Macmillan, 1994): 189-90; for a more recent account of Estonia as a control regime, see V. Pettai and K. Hallik, "Understanding processes of ethnic control: segmentation, dependency and co-optation in post-communist Estonia", *Nations and Nationalism*, 8 (4). 2002: 505-529.

[46] Smith, Aasland & Mole, loc cit.

Estonian representatives. By far the largest number of seats (29) fell to the radical nationalist *Isamaa* (Fatherland) bloc. In October 1992 this formed a government with the National Independence Party (*ESRP* – by far the most restorationist in outlook of the main political parties) and the Moderate bloc drawn from former members of the Popular Front

Provision for minority rights under the 1992 constitution is centred on the paradigm of non-territorial cultural autonomy, which was pioneered with some success in the inter-war Estonian Republic. Article 50 of the 1992 constitution thus states that "national minorities have the right, in the interests of national culture, to establish self-governing agencies under conditions and pursuant to procedure provided by the national minority cultural autonomy act". Restored to existence in 1993, this law allows representatives of national minority groups numbering more than 3,000 the right to form themselves into public corporations and establish cultural autonomy. Provided the initiators of the corporation can register at least half of the adult members of the relevant group onto a national register (*nimekirja*), they can hold elections to a Cultural Council. If elected, this Council can – with a two thirds majority vote – proceed to implement an autonomy scheme giving it full administrative and supervisory powers over minority schools and other cultural institutions. Cultural Councils enjoy the power to raise taxes from the registered members of the minority group. This income supplements funding from central and local government previously allocated to minority schools within the state sector. Unlike existing local authorities, the Cultural Councils envisaged under the law are not territorially based.

In territorial terms, inhabitants of localities where "at least half of the permanent residents belong to a national minority" have the right to receive responses from state agencies, local governments and their officials in the relevant minority language.[47]

However, under the terms of the cultural autonomy law the designation 'minority' is deemed to apply only to "citizens of Estonia who maintain longstanding, firm and lasting ties with Estonia … [and] … are distinct from Estonians on the basis of their ethnic, cultural, religious or linguistic characteristics'.[48] An analysis of the debates surrounding this law shows that the term 'national minority' was most emphatically *not* taken to refer to the large population of non-Estonians without citizenship. In keeping with the legal

[47] The Constitution of the Republic of Estonia. Translation into English prepared by the Estonian Translation and Legislative Support Centre, 1996. http://www.rk.ee/rkogu/eng/epseng.html#1p

[48] Law on Cultural Autonomy for National Minorities (Article 1), unofficial translation prepared by the Estonian Ministry of Foreign Affairs November 16 1993.

continuity principle, the Estonian authorities insisted that settlers were immigrants – citizens of the USSR who had settled in Estonia during the period of occupation. Prior to the adoption of legislative amendments in 1998 (see below) the *jus sanguinis* principle of nationhood underpinning the Estonian law on citizenship dictated that children born to non-citizens living in Estonia had no automatic entitlement to Estonian citizenship. Many titular contributors to the minorities debate argued that even those settlers who obtained citizenship by naturalization could not be classed as representatives of a 'national' – as opposed to an 'ethnic' minority. In legal terms, Estonian minorities policy is entirely consistent with the CoE FCNM. In their approach to the settler issue, Estonian state-builders thus consciously sought to exploit the absence of any universal framework for minority rights, employing the very arguments that a number of EU member states had used in order to avoid any far-reaching minority rights obligations to their own immigrant populations.

Although Western states and international organizations could not dispute the legal bases of Estonia's nationalities policy, they were nevertheless deeply concerned by its possible social and political implications. Comparisons between immigrant minorities in Western Europe and Russian settlers in Estonia, of course, disregard the difference in historical context. Whereas in existing EU member states, immigrants constitute a small fraction of the population, Estonia's Soviet-era settler population makes up one third. More importantly, Russians who settled in the Baltic after the war (and their descendants who were born there) could for the most part barely have conceived of the fact that Estonia was a different country from the one that they had left behind. As soviet citizens of Russian nationality, they not only enjoyed the same rights – however limited – as 'titular' inhabitants of the ESSR, but also access to a full system of education (primary–secondary–tertiary) and guaranteed employment in their native tongue. In short, at the time of independence they bore all the hallmarks of a national minority as defined by Kymlicka and Brubaker. Against this background, it is hardly surprising that the state order established during 1992 – and especially the naturalization provisions of the law on citizenship – became the focus of near universal opposition amongst the non-Estonian population. Whilst primarily concerned with overturning existing legislation and obtaining citizenship for all residents, Russian organizations and parties have nevertheless tried to mobilize all people whose first language is Russian, regardless of ethnicity or citizenship status. The aim has been none other than to create a new Russian-speaking (as opposed to purely Russian) *nationality* with claims to distinct status within Estonia. According to Estonian scholar Raivo Vetik, the Estonian 'modernist' project of merging culturally and linguistically different social groups

into a congruent whole has been countered by a 'post-modernist' discourse stressing ideals of difference, plurality, equal rights and multiculturalism.[49]

A widespread sense of alienation on the part of the Russian-speaking population has thus far not proved a sufficient condition to produce a mass politics of collective action.[50] The failure to achieve more effective and sustained political mobilization in opposition to the existing state order has had much to do with the continued heterogeneity demonstrated by a 'Russian-speaking population' now further sub- divided along lines of citizenship and socio-economic status. However, in spite of the entirely bloodless transition to independence during 1988-91, many Western observers remained fearful that the radically-changed socio-political status of the

Russian population might lead to the emergence of open unrest and perhaps even violent conflict. Certainly, most authors would assert that 'ethnic democracy' is not a reliable long-term prescription for ethnopolitical stability. Whilst Western states and international organizations have never questioned the underlying basis of Estonia's citizenship policy – and, thus, by implication, the immigrant status accorded to Soviet-era settlers – their perspective on the issue differed significantly from the dominant conception held by the Estonian authorities in the early years of independence. It seems certain that for most representatives of *ESRP* and the *Isamaa* bloc, settlers and their descendants were viewed as metics who should be encouraged to 'voluntarily repatriate' as soon as possible. In keeping with this view, once the Russian Federation assumed the mantle of legal successor to the USSR at the start of 1992, settlers and their descendants were deemed to have become citizens of Russia for whom the Estonian state bore no legal responsibility. The authorities thus denied that non-citizens could be termed 'stateless persons'. Rather, the term 'persons of undetermined citizenship' was used.

From a Western point of view, however, settlers constituted an immigrant minority rather than a metic group. OSCE HCNM Max van der Stoël, for instance, insisted that, *de facto*, Estonia was responsible for its non-citizens, even if, legally, they could not be classed as stateless persons.[51] In common with other observers, he was anxious that the naturalization of the settler population should proceed as quickly as possible, lest the

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[49] R. Vetik, *Inter-Ethnic Relations in Estonia 1988-1998* (Tampere, Acta Universitatis Tamperensis 655, 1999): 10-11.

[50] G. Smith, V. Law, A. Wilson, A. Bohr, E. Allworth, *Nation-building in the Post-Soviet Borderlands. The Politics of National Identities* (Cambridge: Cambridge University Press, 1998): 110

[51] R. Kionka, "Estonia: A Difficult Transition", *RFE/RL Research Report*, vol. 2, no.1, January 1993: 90.

citizen/non-citizen divide crystallize into an enduring division and settlers be consigned to the status of a permanent underclass.[52] The Western position was neatly summarized in 1995 by a leading British diplomat, who stated that although the UK government of the day regarded the citizenship law as a legitimate response to a peculiar set of historical circumstances, it had nonetheless consistently underlined its desire to see the issue of citizenship resolved as quickly as possible.[53] The Western stance on minority rights has, however, been somewhat ambiguous and open to differing interpretations. Broadly speaking, it could be regarded as lending support to a policy of liberal nationalism involving the promotion of Estonian as the sole official state language and basis for the common societal culture. At the same time, however, Western actors have favoured a "'multicultural' approach to integration which would allow and indeed encourage … [post-war Russian settlers] … to maintain various aspects of their ethnic heritage even as they integrate".[54] As I argue below, however, the factual situation which obtains in post-Soviet Estonia has meant that Western prescriptions for minority rights have shown a growing tendency to go beyond the limited 'immigrant multiculturalism' practised in Western societies towards a paradigm more consistent with the needs of an institutionally complete 'national' minority.

In practical terms, the distinction between *national* minority and *ethnic* minority in post-Soviet Estonia has been far less clear cut than one might suppose. Both the citizenship law and the draft constitution were submitted to scrutiny by experts from the Council of Europe and the CSCE during 1992, and this interaction doubtless helped to reinforce trends towards pragmatism. Thus, in spite of the strong emphasis on legal continuity, the new state order established in 1992 necessarily took at least some account of the realities arising from fifty years of Soviet rule. The Estonian constitution grants both citizens and non-citizens the same access to fundamental freedoms and social and economic rights.[55] This includes freedom of association, although non-citizens are not allowed to join political parties. Non-citizen residents also have the right to vote in local elections. The constitution also states that in localities where the language of the majority of permanent *residents* (not citizens - DS) is not Estonian, local governments may use the majority language as an internal working language. Whilst it transpires that no local authority has

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[52] M. van der Stoël, quoted in a letter addressed to Trivimi Velliste, Minister for Foreign Affairs of the Republic of Estonia, 6 April 1993: 1-2; see also Pettai, op cit.: 276.
[53] Discussion with the present author, Chatham House rules, October 1995.
[54] Kymlicka, "Estonia's Integration Policies", op cit.: 8
[55] The third component of an ethnic democracy listed by Smith.

actually applied formally for permission to implement this provision, Russian has in practice continued to serve as an internal working language in predominantly Russian- speaking cities of the north-east such as Narva and Sillamäe. Moreover, whilst the law on non-territorial cultural autonomy is open only to non-titular residents with citizenship, a separate law on non-commercial unions and organizations has given non-citizens the possibility to form their own cultural organizations. State and local government have also extended fairly extensive support to such organizations operating outside the framework of the cultural autonomy law, ensuring that a thriving network of cultural societies and minority schools has continued to develop during the post-independence era.[56]

IV. "Dancing on a Rope" – Europeanization and National Self Assertion, 1992-97

In spite of these concessions, however, representatives of Western states and international organizations remained concerned by the political exclusion of the settler community. As such, international observers such as Max van der Stoël impressed upon the Estonian government the need to engage in dialogue with representatives of the Russian-speaking population. Western fears were stoked by Russia's vigorous internationalization of minority issues in Estonia and Latvia from 1992 onwards, which employed wildly emotive terms such as 'apartheid' and 'velvet ethnic cleansing'. While these interventions did not succeed in their aim of reversing citizenship policy, they certainly placed Estonia and Latvia even more squarely under the international spotlight. Russia's allegations appeared briefly to cast doubt on Estonia's entry to the Council of Europe in 1992, whilst the European Parliament delayed ratification of trade and cooperation agreements for several months until it was sure that minority policies met international standards. Continued pressure from Russia also helped to ensure that Estonia and Latvia became early 'test cases' for the new conflict prevention approach of the OSCE.[57] Russia's strategy of internationalization ultimately proved counter-productive, however. By inviting a number of international delegations – and, most significantly, by consenting to the long-term presence of an the OSCE Monitoring Mission (1993-2001) – Estonia was able to demonstrate that allegations of mass systematic human rights abuses had no basis in reality.[58]

In response to Western fears over the political exclusion of settlers, the Estonian

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[56] D. J. Smith, "Legal Continuity", op cit, chapter 6; D. J. Smith, "Narva Region", loc cit.

[57] See: A. Ozolins, "The Policies of the Baltic Countries *vis-à-vis* the CSCE, NATO and WEU", in Joenniemi, P. and Prikulis, J. (eds.), The Foreign Policies of the Baltic Countries: Basic Issues, (Riga, 1994): 49-74.

[58] Pettai, op cit.: 268.

government was at pains to portray the situation arrived at in 1992 as a temporary state of affairs. Legislation on citizenship, it was insisted, should be seen as a mechanism for setting in train a developmental process of integration rather than a means of insitutionalizing an ethnopolitical divide.[59] Nevertheless, Western concerns did have some foundation, insofar as the 'decolonization' caucus remained influential within the *Isamaa* coalition government of 1992-95. That *Isamaa*'s nationalities policy rested on the dual tenets of 'integration and repatriation' points to an unresolved tension within the government during this time. In the course of 1992 to 1995, the ruling coalition was aptly characterized as "dancing on a rope", torn between the demands of its own radical nationalist wing on the one hand, and the requirements of securing westward integration on the other.[60]

In his inaugural speech to the *Riigikogu* in October 1992, prime minister Mart Laar listed membership of the Council of Europe and an association agreement with the EU amongst his government's priorities.[61] In keeping with this aspiration, the government was able to push through a series of amendments to citizenship legislation in line with recommendations put forward by international experts who had scrutinized the law. These amendments fixed the linguistic requirement for naturalization at a level corresponding to a basic working knowledge of the Estonian language (level C under the 1989 law on language) whilst also specifying that entitlement to citizenship would henceforth pass via the maternal as well as the paternal line.[62] These demonstrations of good faith did much to facilitate Estonia's entry into the Council of Europe in May 1993, a full two years ahead of neighbouring Latvia. At the same time – the amendments to the citizenship law, bringing as they did the prospect of a significant widened non-Estonian electorate by the time of the next parliamentary elections – caused consternation within radical nationalist circles. The final debate on Estonia's admission to the Council of Europe came at a time when Estonia was poised to adopt a new law on local elections. Whilst the constitutional provision allowing all permanent residents to vote in local elections had greatly strengthened the Estonian case for membership, CoE experts nevertheless felt that this concession would be

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[59] The term of the first *Riigikogu* was limited to two and a half years rather than the usual four so that those non-citizens who obtained naturalisation swiftly would have an early opportunity to exercise their vote.

[60] Author interview with Albert Maloverian, First Deputy Editor of Molodezh' Estonii, (Tallinn, 7 June 1994).

[61] 'Mart Laari Kõne Riigikogus 19 Oktoobril 1992', Rahva Hääl, 20 October 1992.

[62] R. Ruutsoo, "The Emergence of Civil Society in Estonia", unpublished draft document given to the author in January 1996. According to expert testimony, the low number of applications for naturalization during 1992-93 could be explained at least partly by the absence of any firm guidelines regarding the linguistic criteria for naturalization. See *The Baltic Independent* 12-18 February 1993.

undermined if non-citizens were not also granted the right to stand for office. In line with these recommendations, the Estonian government apparently gave assurances that this provision would be included in the law submitted to parliament.[63] Allowing non-citizens the right to stand for office, however, was clearly a concession too far as far as radical nationalist MPs were concerned, not least because former communist elites in the Russophone north-east had emerged as a prime locus of opposition to the new state order during 1991-93. When the law on local elections was presented to parliament, deputies from the Estonian National Independence Party broke with the government on the issue, thereby ensuring that this provision was deleted from the final law.[64]

Estonia gained admittance to the European 'club of democracies' with its controversial state order more or less intact. Yet the requisite amendments to citizenship legislation, however cosmetic, has aroused the wrath of radical nationalists. Addressing the nation on the occasion of the country's entry to the CoE, Estonia's President Lennart Meri felt obliged to reassure his compatriots that integrating into Europe was not the same as 'dissolving' into Europe, and as such would permit Estonians to retain their distinct language and culture.[65] With the crucial hurdle of CoE membership safely negotiated, the government clearly felt at liberty to answer its domestic critics by pursuing a more assertive line towards the non-citizen population. At the start of June 1993 it unveiled what has proved to be the most controversial piece of legislation of the post-Soviet period – the law on aliens. Whilst measures to formalize the legal status of the non-citizen population were both necessary and – arguably – long overdue, the 'aliens' legislation seemed calculated to cause the maximum uncertainty and anxiety amongst the representatives of this group. Under the law, all civilians residing in Estonia on Soviet or Russian passports were given a year in which to apply for new residence and work permits. Failure to do so would confer a formal status of illegal immigrant and the prospect of deportation. No distinction was drawn between immigrants who had arrived in Estonia the previous day and former Soviet citizens who had been born in the country or lived there for more than twenty years. The psychologically unsettling effect of the law was heightened by the fact that only temporary, five year permits were to be issued in the first instance. In order to qualify, applicants were

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[63] V. Pettai, "Contemporary International Influences on Post-Soviet Nationalism: the Cases of Estonia and Latvia", paper presented at the American Association for the Advancement of Slavic Studies 25th National Convention, Hawaii, 19-21 November 1993.

[64] K. Muuli, "Kohalilesse Volikogudesse pääsevad 17 Oktoobril üksnes Eesti kodanikud", *Postimees*, 20 May 1993.

[65] Meri, *'ôiguste ja kohutuste tasakaal'*,: 337-338.

required to possess a 'lawful source of income', a category only vaguely defined under the law. There seems little doubt that the law on aliens was conceived as a means of intensifying the pressure upon non-citizens to 'repatriate' themselves to Russia or other CIS countries. The same could be said of the new law on education passed during the same month. This obliged all Russian-language gymnasiums (upper secondary schools for pupils aged between 16 and 19) and higher education establishments to switch to teaching entirely in Estonian by the year 2000. Whilst local authorities were given the right to determine the language of instruction in basic secondary schools (grades 1-9), Russian-speaking pupils wishing to obtain access to state-funded education beyond the age of sixteen would be required to attain the requisite level of Estonian-language skills. The prospect of an end to the parity between Estonian and Russian-language education was in itself unsettling from the point of view of the Russian-speaking population. The dearth of qualified Estonian language teachers, moreover, meant that the deadline of 2000 appeared wildly unrealistic. The law thus appears to constitute a further example of an overly legalistic approach designed to increase pressure upon the non-citizen population.

These new laws aroused particular consternation in the predominantly Russophone north-east. Not least, the provision on 'legal income' and other ambiguities inherent in the aliens act were alarming to the large body of unemployed non-citizens residing there. For rebellious town council leaders in Narva and Sillamäe – who, as non- citizens were now barred from standing in the local elections scheduled for October 1993 – the law on aliens served as a suitable pretext for organizing a local referendum on whether the two towns should be given 'national-territorial autonomy within the Republic of Estonia'. In taking this step, the local elites were clearly seeking to capitalize upon the international controversy elicited by the aliens law, which had attracted criticism from, *inter alia*, the OSCE. Thanks partly to intervention by Max van der Stoël, a number of amendments were introduced to the law on aliens. These removed many of the ambiguities of the original draft, without really altering its substance. Meanwhile, the tense stand-off between central government and local authorities in Narva and Sillamäe during the summer/autumn of 1993 was ultimately resolved peacefully, with the former communist leadership relinquishing power at the October elections. These gave rise to councils which were more concerned with economic development than political autonomy and, as such, far more amenable to cooperation with central government.[66] In spite of some claims to the contrary, however, the

[66] D. J. Smith "Narva Region", loc cit; G. Smith et al, *Nation-building in the Post-Soviet Borderlands*: 114.

so-called 'Aliens Crisis' of 1993 did not mark a fundamental turning point in Estonia's policies towards its Russian-speaking population. In this regard, the international mediation of that year has been rightly described as 'fire-fighting', which alleviated but did not resolve the tension between state and minority.[67]

Intervention by the OSCE was important in terms of initiating a dialogue between the government and the main 'Russian-speaking' political organizations, not least through the creation of a Round Table of Nationalities under presidential auspices. The government, however, continued to exhibit a legalistic approach to the citizenship issue. The widespread dissatisfaction apparent amongst the non-citizen population was further heightened by the introduction of new, amended citizenship law in January 1995. Ostensibly designed to bring Estonia more closely into line with 'European standards' pertaining to naturalization, the new law increased the residence requirement for citizenship to five years, whilst introducing further tests which required applicants to demonstrate a detailed knowledge of the Estonian constitution and political system.[68]

Nor did the accession of a new, ostensibly 'left-of-centre' government after the February 1995 elections mark any major change to the underlying basis of the system. In line with international recommendations, non-citizens were given firmer guarantees of their continued right to reside in and travel to and from Estonia, most notably through the widespread issuing of so-called 'Alien's Passports' from 1996 onwards. At the same time, the period 1995 to 1997 also witnessed further 'nationalizing' measures intended to further undermine the position of the Russian-speaking minority within society.[69] Minority organizations, however, also began to display a much greater degree of organization and assertiveness during this period. One important factor in this regard was the election of six Russian-speaking deputies to the *Riigikogu* in the elections of 1995 (and again in 1999). Also, in spite of the increased 'loyalty' shown by local councils in the north-east after 1993, local elites there have continued to engage in 'rights-based politics'. In 1996, for instance, new proposals that candidates standing for office in national and local elections should be required to demonstrate a working knowledge of the Estonian language elicited significant opposition in Narva as well as concern on the part of international experts at the OSCE. These expressions of disquiet led president Lennart Meri to veto the law.

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[67] D. J. Smith, *Estonia. Independence and European Integration* , op cit.: 89

[68] K. Malmberg & R. Sikk, 'Muulased tahavad lastele Eesti kodakondsust', *Eesti Päevaleht*, 4 April 1997; Tartu University Market Research Team, The Attitude of Town Residents of North-Eastern Estonia towards Estonian Reforms and Social Policy: a Comparative Study of 1993, 1994 and 1995 (Tartu: University of Tartu, 1995): 8.

V. 1997-2002: Towards Multicultural Democracy?

If the two years after 1995 suggested a significant growth in ethnopolitical stability compared to the period 1992 to 1995, it was only in 1997-98 that Estonia took significant steps to revise its nationalities policy.[70] As already noted, the 1997 evaluation of Estonia's readiness by the European Commission indicated that the country fulfilled the rather vague 'Copenhagen criteria' relating to respect for and protection of minorities. Nevertheless, the Commission *avis* highlighted the need to speed up the integration of the non-citizen population. As one of the stipulations for entry to full membership negotiations, Estonia was required to enact a series of amendments to its citizenship legislation which grant automatic citizenship to all children born to non-citizen parents in Estonia after February 1992. This demand reflected recommendations by experts at the OSCE, who had expressed increasing concern at possible stagnation in the process of naturalizing the non-citizen population. With over a thousand children being born annually to non-citizen parents in Estonia and Latvia, there were fears that this would serve to perpetuate the citizen/non-citizen divide. Experts also noted that this amendment would bring Estonia in line with other OSCE members and with UN provisions relating to the rights of the child.[71] Although the proposed amendments elicited a fierce political debate lasting for the best part of a year, their adoption in December 1998 can be seen as indicative of a growing political consensus amongst titular actors that the integration of non-citizens is a necessary course of action. According to Vello Pettai, one of the most important reasons for this was the fact that Estonia's prospects for a rapid accession to the EU improved significantly during the period in question. "More than any other single mechanism of influence", he notes, "the EU made most Estonian and Latvian politicians realise that improving the citizenship issue was crucially important".[72]

A further significant step in this direction was the revival, in May 1997, of a ministerial post devoted entirely to ethnic affairs. This can be seen as symptomatic of a determination by new prime minister Mart Siimann to demonstrate responsiveness to EU

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[69] D. J. Smith "Legal Continuity", Chapter 8.

[70] In this respect, it was notable that the Council of Europe decided to end its monitoring of Estonia in January 1997. For a summary of developments during this period, see D. J. Smith, "Russia, Estonia and the Search for a Stable Ethno-Politics", *Journal of Baltic Studies*, 29 (1) 1998: 3-18.

[71] Pettai, "Estonia and Latvia: International Influences on Citizenship and Minority Integration', op cit: 275-276.

[72] Ibid. By the same token, one could add that NATO membership for the three Baltic states appeared to have slipped down the Western agenda following the Madrid Summit of 1997. This increased the importance of the EU as a source of security against the perceived threat of Russia.

concerns ahead of the impending verdict on Estonia's membership negotiations.[73] The new post of Minister for Population and Ethnic Affairs passed to Progressive Party leader Andra Veidemann, who devoted herself wholeheartedly to the role. Veidemann promptly established a commission charged with producing a draft integration policy concept by the end of the year. Following approval by government and parliament during the first half of 1998, the draft was circulated amongst representatives of parliament, government bodies and local authorities. A final approved text emerged in March 2000 as the State Programme "Integration in Estonian Society 2000-2007".[74] The drafting of the State Programme marked the first attempt to devise a coherent strategy for the integration of non-citizens. In this regard, it is notable that the programme describes Soviet era settlers and their descendants quite unequivocally as representatives of an 'ethnic minority' rather than 'foreigners' or 'aliens', as had previously been the case in many official documents.[75] The programme defines three main spheres for the integration of the Russian-speaking minority: linguistic-communicative, legal-political and socio-economic. The principal focus of the strategy is on the linguistic dimension, which received three quarters of the funding allocated to the programme during 2000-2002. However, another of the stated goals of the programme is to give ethnic minorities the opportunity to preserve their ethnic and cultural distinctiveness. The programme can thus be seen as marking the emergence of 'immigrant multiculturalism' into the official discourse on statehood and minorities. Whereas previously, 'integration' of the non-citizen population – insofar as this was accepted as a valid course of action at all – was deemed to connote a one-way process of assimilation into Estonian culture. The state integration strategy published in March 2000 makes it clear that this understanding has changed, and that the scope of the term has been widened to denote the integration of society as a whole.[76] The integration programme identifies 'common core' characteristics as democratic values, a shared information sphere and Estonian language environment and common government institutions, and calls upon both Estonians and non- Estonians to take part in the 'bilateral process' of integration.[77]

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[73] Smith, *Estonia. Independence and European Integration* , op cit: 101

[74] For full text, see: http://www.riik.ee/saks/ikomisjon/programme.htm. For a recent assessment of the programme, see Open Society Institute, *Minority Protection in Estonia. An Assessment of the Programme Integration in Estonian Society 2000 -2007* (Open Society Institute, 2002).

[75] The document lumps together the conceptually distinct categories of 'ethnic' minority and 'national' minority under a single generic heading ('ethnic minority').

[76] State Programme "Integration in Estonian Society 2000-2007": 3; interview between the present author and Stephan Heidenhain, First Secretary of the OSCE Mission to Estonia. Narva: 22 November 2000.

[77] Open Society Institute, op cit.: 200

This 'reciprocal vision' of integration was not present in the original draft, but emerged out the process of consultation with various interested parties during 1998 to 2000. The provisions relating to preservation of ethnic differences, for instance, were only added at the behest of the Presidential Roundtable of Nationalities.[78] Whilst EU experts were only indirectly involved in the process of elaboration, the final programme was clearly consistent with EU thinking on the nationalities question. In its progress report for 2002, for instance, the Commission notes that "the Estonian authorities should ensure that emphasis is placed on a multicultural model of integration as stated in the aims of the integration programme".[79] Whether the strategy constitutes a viable blueprint for a definitive resolution of the nationality question, however, remains to be seen. As a recent assessment of the programme makes clear, however, there remains "a clear divide between minority and majority perceptions of the goals and priorities of the integration process … which must [still] be addressed in order to achieve mutually satisfactory results".[80] Whilst representatives of the Russian-speaking population have welcomed the programme and hailed it as a major step towards achieving greater understanding between majority and minority, they have nevertheless criticized the programme for its emphasis upon the linguistic- communicative as opposed to the legal-political aspects of integration, and have highlighted the need to pay more attention to issues of discrimination and citizenship.[81] The continued emphasis on the latter question in particular indicates that there is still some way to go before Russian-speaking representatives will accept the status of an 'immigrant minority'. Under the terms of the existing law on citizenship, linguistic-communicative integration can be seen as entirely consistent with legal- political integration, since the acquisition of a working knowledge of Estonian is one of the criteria for naturalization as a citizen. Russian-speaking parties and organizations, however, continue to reject the current naturalization paradigm in favour of a discourse of 'equal rights', arguing that citizenship should be made available to all residents. The argument can be summed up in the following intervention by Russian-speaking parliamentary deputy Sergei Ivanov, who in 1997 noted that "our linguistic democracy is not yet a representative and participatory democracy".[82] In public, at least, the vast majority of Russian-speaking political actors does not question the contention that non-Estonians should become conversant with the majority language.

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[78] Ibid.: 196 and 227.
[79] European Commission, *Progress Report Estonia*, op cit.: 32.
[80] Open Society Institute, op cit.: 192
[81] Ibid.: 197-198
[82] VIII Riigikogu Stenogramm, VI Istungjärk, 19 November 1997. http://www.riigikogu.es/ems/index.html.

Nevertheless, in the course of the discussions surrounding the State Integration Programme, minority representatives questioned the contention that "within a multicultural Estonia, the Estonian language and culture should have a privileged status".[83] Such interventions signal that Russian leaders remain wedded to a multi-nation as opposed to a polyethnic variant of statehood. In the course of the discussions, proposals to curtail upper secondary and tertiary education in the Russian language emerged as a particular source of disquiet. Indeed, upon reading the initial draft of the state programme, two Russian-speaking members of the expert commission resigned, accusing the authors of striving for 'assimilation'.[84] The schools question has also been a particular bone of contention in north-east Estonia, where there remains considerable support for territorial autonomy[85]

The concerns of Russian-speaking actors have been addressed at least partly by a series of recent amendments to the law on education. Whereas the original law of 1993 had provided for a complete transition to Estonian-language instruction in upper secondary schools by 2000, the deadline was subsequently extended to 2007. Under a further amendment, it was then stipulated that 60 per cent of gymnasiums should make the switch by the specified date.[86] Finally, in March 2002, parliament passed a further amendment, according to which full-time Russian-language education can continue beyond 2007 in municipally-owned gymnasiums where the population so wishes. In its 2002 Report on Estonia, the EU Commission notes that "this development is to be welcomed and strengthens the rights of the Russian-speaking minority. However, in order to have equal access to the Estonian labour market, it is essential for Russian-speakers to have a good command of the Estonian language. It is therefore important to ensure that Estonia has a sufficient number of qualified bilingual teachers in schools".[87] As the above statement makes clear, EU support for continued upper secondary education in the Russian language should not be interpreted as calling into question the currently existing unitary model of statehood based upon a single official language. Recent changes to the law could indeed be viewed as merely taking due account of the social realities bequeathed by half a century of soviet rule; not least, they represent a belated recognition that the goal of a complete transfer by 2000 (or even 2007) was wildly unrealistic given the continued

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[83] Open Society Institute, op cit.: 198

[84] Ibid.: 197; criticism was also voiced by the Centre Party, which has in recent years again begun to challenge the hitherto dominant conception of nation-statehood. See D.J. Smith,"Narva Region", loc cit.

[85] D. J. Smith, loc cit.

[86] European Commission, *Progress Report Estonia* (Brussels: European Commission, 2000): 19.

[87] European Commission, *Progress Report Estonia* (2002), op cit.: 33

shortage of personnel qualified to teach in the state language. Nevertheless, one could argue that the decision to continue state-funded upper-secondary education in the Russian-language takes Estonia beyond immigrant multiculturalism/polyethnic statehood as conventionally understood in Western Europe. Advocates of a unitary, mono-lingual state order, at least, will doubtless regard the continued existence of Russian-language gymnasiums as a development which could strengthen demands for formally recognized territorial autonomy for the north-east and, perhaps ultimately, a bilingual form of statehood.

A similar point could be made regarding recent modifications to the laws on elections and language, as well as suggestions that Estonia should amend its legislation on state service and political parties in order to allow non-citizens greater participation in the political life of the country.[88] In late 1997, the then Estonian government – perhaps seeking to counterbalance the impending liberalization of the citizenship law – again attempted to introduce a provision that all candidates standing for election to local and national government must demonstrate proficiency in the Estonian language. At the same time, the *Riigikogu* also instructed the government to formulate new Estonian-language requirements for entrepreneurs and employees working in the private sector. The former proposal was eventually scrapped, and the latter substantially diluted, after both had elicited criticism from local Russian- speaking political actors as well as from representatives of the OSCE, the Council of Europe and the EU. Among other things, the often heated parliamentary debates on these provisions again exposed the ambiguous nature of international minority rights provision, with each side able to invoke differing conceptions of European norms in order to support its argument. Thus, Russian deputies challenged the presenters of the bill to cite a single European Union state in which candidates for parliamentary and local elections need to sit a language exam and entrepreneurs and personnel working in the service sector are required to demonstrate competence in the state language.[89]

The former stipulation in particular, it was argued, contravened not only the Estonian constitution, but also the European Charter on Local Government and the European Framework Convention for the Protection of National Minorities.[90] In response to these

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[88] The latter suggestion was made in November 2000 by outgoing Council of Baltic Sea States Commissioner on Human Rights Ole Espersen. In Espersen's view, such a move would conform to the corresponding convention of the Council of Europe. Cited in *Narvskaia Gazeta*, 10 November 2000.

[89] VIII Riigikogu Stenogramm, VI Istungjärk, 19 November 1997; http://www.riigikogu.ee/ems/stenograms/1998/11/t98112309-05.html.

[90] VIII Riigikogu Stenogramm, VI Istungjärk, loc cit.

claims, the head of the Estonian State Language Inspectorate Ilmar Tomusk cited a Council of Europe recommendation that individuals residing in a state where they have not always lived – in practice first and second generation immigrants – should develop a sufficient degree of competence in the language of that state to enable them to participate actively in professional, political and social life.[91] In this respect, it was asserted, Estonia had tried to follow the example of other CoE member states. Although European practice in this area varies greatly from state to state, 'in principle' the language examination system does exist in European states. "Each state defends its own language", maintained Tomusk, before going on to cite practices in Finland, Sweden, Germany, Austria and Greece.[92] If one looks at the systems of 'immigrant multiculturalism' that have emerged in the West, those groups acquiring minority rights have typically been well integrated into the dominant societal culture. In Estonia this is not the case – indeed, it is perhaps too early to speak of a single, dominant societal culture within the state. Whilst the EU and other European international organizations continue to voice support for the integration of the Soviet- era settler community and – beyond this – the emergence of a system of immigrant multiculturalism, recent interventions could be construed as prioritizing minority rights over integration. This in turn might fuel demands for a more fundamental revision of the existing state order.

VI. Conclusion

As Will Kymlicka has remarked, the current situation in Estonia defies easy categorization and does not lend itself easily to the importation of Western models. From the point of view of international actors seeking to guide these countries' post- communist transition, the main challenge at the start of the 1990s was to find the middle ground between the 'nationalizing' impulses of the titular elite and the one hand and the claims for national self-determination voiced by local Russian-speakers– and backed by Russia – on the other.[93] The optimal solution was deemed to lie in a variant of 'immigrant multiculturalism'

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[91] http://www.riigikogu.ee/ems/stenograms/1998/11/t98112309-05.html. What actually constitutes a "sufficient degree of competence" is left to the discretion of member states themselves.

[92] Ibid.

[93] As Graham Smith reminds us ("Transnational Politics", op cit.: 516), Western anxieties regarding Russian demands for national self-determination mainly related to the perceived danger that a secessionist movement might arise in the north-east. Writing in 1999, he noted that explicit calls for greater regional autonomy had "not appeared on the OSCE or HCNM agenda. No doubt this is because it is seen as compromising the territorial integrity and stability of Estonia. In other words, the assumption here is that the promotion of minority rights in the north-east would institutionalise a politics of difference, which could eventually fuel irredentist claims". Whilst the 1993 Narva referendum was widely perceived as a secessionist move, available

which would restore the position of Estonian language as the basis of the dominant societal culture, whilst offering the Russian- speaking population, newly reconfigured as a *minority*, some measure of language rights as well as the opportunity to practice its own culture. While the underlying tension – so visible in the early-mid 1990s – between 'nationalizing state' tendencies and 'Europeanization' has plainly not disappeared, the dominant discourse amongst titular actors has plainly shifted towards the EU-sponsored multiculturalist paradigm since 1997, as a number of studies have argued, and the current State Integration Programme perhaps most clearly demonstrates. This shift has even been apparent within the former 'decolonization' caucus of the nationalist right. Although the Fatherland League (*Isamaa*), back in office at the head of three-party right-of-centre coalition from March 1999-early 2002, expressed dissatisfaction with the multicultural approach of the integration programme – "according to the Constitution, Estonia is not a multicultural state but a nation-state, and legislators have never decided to accept multicultural ideology as a development model for Estonia" – the government (again headed by Mart Laar) nonetheless adopted the programme in March 2000. More recently, the Fatherland Union, by now returned to opposition, declared that it embraced all naturalized citizens who demonstrated loyalty to the Estonian state.[94]

The last few years have also witnessed encouraging progress on the 'Russian-speaking' side of the ethnopolitical divide. As often as not, it seems, the 'rights-based politics' of the Russian-speaking elite have been based on demands for greater resources to facilitate the integration of non-citizens into the polity.[95] This suggests that the two communities might indeed be starting to coalesce around the EU paradigm. However, as Kymlicka has rightly observed, many local Russians still find it hard to adapt to the idea that they are an 'immigrant minority'. Although the 'Russian-speaking population' is still far from being a coherent identity group, its leaders have identified their constituency

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evidence suggests that this was not in fact the case, and that local elites were simply seeking to re-draw the existing state order to their own advantage. See D. J. Smith, "Narva Region", loc cit. Moreover, as I argue here, the position of international organizations re: the north-east appears to be shifting.

[94] Quotation from a letter by Tiit Sinisaar, Chairman of the Fatherland League Parliamentary faction expressing the party's position on the State Programme. Cited in Open Society Institute, op cit.: 198; Also notable in this regard is the fact that when in August 2000 a state adviser called for more funds to aid the 'repatriation' of non-citizens holding Russian passports, he was immediately disowned by the *Isamaa*-led government, which insisted that its policy was predicated on the integration of all non- citizens. See discussion in *Postimees*, 23 and 24 August 2000.

[95] See, for instance: G. Smith and A. Wilson, "Rethinking Russia's Post-Soviet Diaspora: the Potential for Political Mobilisation in Eastern Ukraine and North-East Estonia", *Europe-Asia Studies*, 49 (5) 1997: 852; Smith et al, *Nation-building in the Post-Soviet Borderlands*, op cit.: 114; D. J. Smith, "Cultural Autonomy in Estonia: a Relevant Paradigm for the Post-Soviet Era?", One Europe or Several? Working Paper 1901. (Brighton: Economic and Social Research Council, 2001): 23-24.

framed their demands in avowedly *national* as opposed to *ethnic* terms. In light of this fact, Kymlicka has suggested that it might ultimately be necessary to augment the current system of immigrant multiculturalism with a form of rights more appropriate to the needs of anational minority – i.e. a model which "involves a certain degree of institutionalseparateness, self-administration and extensive mother tongue language rights".[96] In this regard, Kymlicka suggests that a system of non-territorial cultural autonomy might be the ideal paradigm for the needs of the Estonian Russians and the other communities of the Russian 'diaspora'. Whilst the current author can only concur with Kymlicka's recommendation of this paradigm, his suggestions overlook the fact that Estonia already has a law on non-territorial cultural autonomy and that this law has already been rejected out of hand by Russian-speaking leaders. Some of the more practical objections raised against cultural autonomy – e.g. a lack of funding possibilities within minority communities; the fact that, in its current wording, the law does not entitle most Russians the status of 'minority' – might yet be addressed by an ongoing review of the legislation.[97] There are more fundamental sticking points, however: a number of Russian commentators, for instance, have objected to the 'dual taxation' inherent in the cultural autonomy scheme. In keeping with the discourse of equal rights, they feel that as taxpayers, they should have automatic access to state-funded education in the Russian language. A second objection relates to the fact that cultural autonomy is not built on the territorial principle and thus – one supposes – is not viewed as relevant to the needs of the territorially compact Russian-speaking population of the north-east.[98] As already mentioned, the EU and other international actors appear to be moving towards support for enhanced territorial autonomy in north-east Estonia. This is in spite of their apparent reluctance during the initial stages to sanction any policy based on institutional separateness. As Graham Smith noted in 1999, "it may well be that in supporting democratisation, European organisations need also to recognise that such measures may necessitate multicultural guarantees in addition to extensive civil liberties and human rights".[99]

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[96] Kymlicka, "Estonia's Integration Policies", op cit.: 17

[97] See, for instance, D. J. Smith, "Cultural Autonomy", loc cit; and D. J. Smith, Kurchinskii and more recent working paper; "Retracing Estonia's Russians: Mikhail Kurchinskii and Interwar Cultural Autonomy", *Nationalities Papers*, 27 (3) 1999: 455-474. The current law on cultural autonomy has been in force since 1993, but none of the eligible minority groups have implemented it thus far. On the current review of the law, see Open Society Institute, op cit.: 228-229.

[98] VII Riigikogu Stenogramm, III Istungjärk, 30 September 1993: 221.

[99] G. Smith, loc cit.

However, as the recent high levels of 'Euroscepticism' amongst the titular nationality perhaps testifies, the EU must continue to strike a fine balance between minority interests and those of a titular nation still labouring under the burden of past injustices. Only in this way will the recent encouraging progress towards multicultural democracy be maintained.

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