

Transgressive initiatives 'from below' and the defensive reinforcement of jurisdictional boundaries

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Contemporary walls, especially those around democracies, often undo or invert the contrasts they are meant to inscribe. Officially aimed at protecting putatively free, open, lawful, and secular societies from trespass, exploitation, or attack, the walls are built of suspended law, and inadvertently produce a collective ethos and subjectivity that is defensive, parochial, nationalistic, and militarized. They generate an increasingly closed and policed collective identity in place of the open society they would defend. Wendy Brown: Walled States, Waning Sovereignty

Set against the background of late twentieth century assumptions about the likely impact of globalisation – in which it was routinely assumed that combined forces of Euro-American capital and the multi-national corporations which it spawned would steadily sweep away jurisdictional borders of all kinds, so enabling them engineer the free movement of capital, of goods and of labour on a global scale to their hegemonic advantage – current twenty-first century developments are beginning to look increasingly paradoxical. Whilst processes of globalisation are proceeding apace, not least because the declining cost of transport, together with the availability of instant information transfer over the internet, have facilitated a further phase of exponential growth in the scale of the circulation of assets, goods and personnel on a global scale, the onset of the twenty first century also been marked by a sea-change in the structure of the global economy. Just as Euro-American steam-powered manufacturing initiatives finally swept aside, and ultimately overwhelmed the less mechanised productive capabilities of India and China in the early decades of the nineteenth century, such that the Euro-American powers were go on and establish themselves as global hegemon, so it is becoming increasingly clear, two centuries later, that India and China are moving into a position from which to reverse the swing of the pendulum.

With such considerations in mind this article seeks to address some of the implications of what can best be understood – always provided we consider global history, as surely we must, in the *longue durée* – as the third, and still-emergent, phase of globalisation (Ballard 2010). However a brief article is no place to discuss all the many implications of these developments. Instead my agenda here is much narrower: rather it is to explore the reasons why, and the justifications offered for an increasingly contemporary development: namely the

steady reinforcement of the scale and salience of jurisdictional boundaries, in sharp contrast to the once conventional expectation that globalisation would lead to their steady elimination.

Walls or Sieves?

Whist Brown quite rightly points to the ever greater salience of exclusionary walls and fences which are currently under construction as a result of efforts to guard the internal integrity of a diverse range of jurisdictions – stretching all the way from democracies such as the United States and India to theocracies such as Israel and Saudi Arabia – a further salient feature of all these exercises is that they are all markedly *porous* in character. Their objective is not so much to hamper the free flow of goods and persons across the jurisdictional boundaries in question, but rather to preclude the inflow of unwanted goods, and above all unwanted *persons*, across them. In other words the central purpose of contemporary forms of boundary-reinforcement is to facilitate the implementation of policies and processes of migration management.

This points to a central paradox in contemporary policies of boundary construction, for in no way is their objective to secure the jurisdictions they contain in a condition position of North Korean style autarchy. Even when such walls and fences run across many miles of desert as well as across major mountain ranges, these structures are better understood as *sieves*: their objective is not so much to curb the passage of goods and persons across the border, but rather to channel those flows through a restricted range of valve-like crossing points at which large-scale movement across the disjunction can be readily monitored, thereby facilitating the central purpose of the whole exercise: to provide the least possible obstruction to those crossing the border on a legitimate basis and for legitimate purposes, whilst firmly excluding those persons – and to a more limited extent certain categories of those goods – who are unable to meet those criteria. That is what migration management is all about.

The driving forces behind these developments are clear enough. As the cost of long-distance travel has plummeted in the course of the past few decades, labour-power has become steadily more mobile on a global scale. But whilst this has at one level proved to be a godsend for every prosperous jurisdiction, since their inhabitants can now tap into a vast reservoir labour power from which to recruit additional hands to perform all manner of menial tasks for minimal wages, on another over-recruitment of labour power ‘from below’, or in other words from their former colonial possession is now perceived as having alarming consequences in the longer term. Hence ‘immigration’ in this specific sense has become an

ever-intensifying source of popular alarm. In addition to being regarded as unwelcome competitors for scarce resources, the rapidly growing presence of the new minorities, together with their members' commitment to maintaining a sense of their own ethno-religious distinctiveness has also precipitated intensifying fears that their distinctiveness represents an unacceptable threat to the integrity of the established socio-cultural order. Hence the central objective of migration management is to constrain this unwelcome – and hence unwanted – inflow, and if possible to reverse it.

Despite all this, the objective of migration management is not to halt the inflow of labour migrants *per se*. After all there is still an ever-expanding demand for hands to carry out menial tasks such as personal care for the elderly and the otherwise disabled, to carry out seasonal agricultural tasks and to provide other forms of low-skilled and low-paid menial service. With such considerations in mind policies of migration management are best understood as the outcome of rational neo-liberal efforts to square this particular circle. From this perspective the category of persons who can best – or in other words, most flexibly – fulfil the demands of a constantly fluctuating labour market, and who can do so without precipitating the socio-cultural downsides that were generated as a result of previous episodes of 'unmanaged' migration, are lone individuals unencumbered by family obligations, who can not only be imported to fill vacant slots in the labour market as and when the need arises, but who can also be repatriated as and when the market has no further need for their services. However this neo-liberal dimension migration management is invariably conditioned by an additional process of selective sieving, such that these restrictions will have a minimal impact on immigrants of a 'superior' quality (typically defined as young, well educated and of indigenous Euro-American descent, or at least newcomers from elsewhere who can be expected readily to mimic Euro-American socio-cultural following their arrival), whilst tightly constricting the entry and residence of those who have few if any educational or professional qualifications, and most especially so if they are of non-Euro-American origin. Moreover all these priorities are currently sustained by a flood of popular opinion, which no democratically elected government now afford to ignore if it wishes to remain in power.

Hence one of the most ironic consequences of the current phase of globalisation is that whilst the once commonplace constraints on the transfer of information, of value (money) and of goods across jurisdictional boundaries have almost entirely disappeared, those directed at the movement of human beings across such boundaries have moved rapidly in the reverse direction. Passports only came into routine use in the aftermath of the First World War. But

as the process of border security has become steadily more intense in recent decades, so have passport regimes, which now aim to supplement documentary data with parallel processes of electronic and biometric scrutiny. But once again these controls are firmly *selective* in character. Globalisation still rules in the sense that the annual flow of persons across any given jurisdictional boundary is still following a pattern of exponential growth. Hence border controls are not absolute barriers: rather they provide a filtering service through which legitimate sheep can pass through with a minimal degree of obstruction – provided they survive increasingly intrusive personal security checks – whilst the unwelcome goats are firmly excluded.

However closer inspection of this process reveals yet further levels of complexity, for it is soon apparent that those classed as admissible sheep fall into several quite distinct species, including

- i. *Citizens*, who normally have an absolute right to leave, and to return to, their native jurisdiction as and when they choose.
- ii. *Visitors*, who, whether they are travelling for business or pleasure, who confirm that they will shortly re-cross the border to return to the jurisdiction from whence they came.
- iii. *Denizens*, who, though lacking the rights of citizens, have nevertheless been granted some form of leave to remain within the jurisdiction in question, and who are typically entitled to take up employment so long as their leave to remain holds good, and who may well also be required to forfeit their leave to remain if they lose their jobs.

Citizens and Denizens

In legal terms border controls are a necessary feature of sovereignty: in post-Westphalian contexts states are routinely entitled to maintain both their socio-cultural and their territorial integrity by means of border controls. However to the extent that these provisions were established in a context where the scale of human traffic across jurisdictional boundaries was extremely limited, globalisation has played havoc with the premises which have long underpinned those conventions. And no-where have ever-increasing levels of transjurisdictional traffic played greater havoc with Westphalian premises than with respect to one of their core expectations: namely that henceforward nation-states would and should be constituted on homogenous, as opposed to pluralistic, socio-religious foundations.

But if the Westphalian settlement served to bring more than a century of European warfare to an end, it is equally clear, especially with hindsight, that state-construction around the

premise of a homogeneous citizenry, and a consequent commitment to the extirpation of plurality, and especially of religious plurality, created as least as many problems as it resolved, if only because that condition could only be sustained if each such jurisdiction walled itself in so tightly that it became an autarchy with no contact whatsoever with outsiders. It follows that whilst the Westphalian settlement undoubtedly provided a novel set of solution to some pressing issues in the sphere international relationships, so much so that the conventions so established in that sphere still hold good, at least in principle, to this day, its parallel (but unrealistic) efforts to eliminate the *de facto* presence of plurality within jurisdictional boundaries by executive *fiat* has long been riddled with contradictions, which have in turn become steadily more explosive in the current phase of globalisation.

However issues of jurisdictional plurality, whether precipitated by internal diversity or by the presence of newcomers from elsewhere were by no means a seventeenth century novelty. Writing in the context of a jurisdiction which still largely ignored the premises of the Westphalian settlement, Blackstone's comments on these issues in the chapter entitled "Of People, Whether Aliens, Denizens or Natives" in his still much quoted *Commentaries on the Laws of England* (1765) deserved our close attention. In doing so he opens his discussion not so much in terms of the rights and obligations of citizens, but rather of those arising from their condition of natural subjecthood, as opposed those available to aliens:

THE first and most obvious division of the people is into aliens and natural-born subjects. Natural-born subjects are such as are born within the dominions of the crown of England, that is, within the allegiance of the king; and aliens, such as are born out of it. Allegiance is the tie, or ligament, which binds the subject to the king, in return for that protection which the king affords the subject.

Natural allegiance is such as is due from all men born within the king's dominions immediately upon their birth. For, immediately upon their birth, they are under the king's protection; at a time too, when (during their infancy) they are incapable of protecting themselves. Natural allegiance is therefore a debt of gratitude; which cannot be forfeited, canceled, or altered, by any change of time, place, or circumstance, nor by anything but the united concurrence of the legislature

Local allegiance is such as is due from an alien, or stranger born, for so long time as he continues within the king's dominion and protection: and it ceases, the instant such stranger transfers himself from this kingdom to another. Natural allegiance is therefore perpetual, and local temporary only: and that for this reason, evidently founded upon the nature of government; that allegiance is a debt due from the subject, upon an implied contract with the prince, that so long as the one affords protection, so long the other will demean himself faithfully.

Natural-born subjects having a great variety of rights, which they acquire by being born within the king's ligeance, and can never forfeit by any distance of place or time, but only by

their own misbehaviour. The same is also in some degree the case of aliens; though their rights are much more circumscribed, being acquired only by residence here, and lost whenever they remove.

An alien born may purchase lands, or other estates: but not for his own use; for the king is thereupon entitled to them. If an alien could acquire a permanent property in lands, he must own an allegiance, equally permanent with that property, to the king of England; which would probably be inconsistent with that, which he owes the his own natural liege lord: besides that thereby the nation might in time be subject to foreign influence, and feel many other inconveniences.

Yet an alien may acquire a property in goods, money, and other personal estate, or may hire a house for his habitation: for personal estate is of a transitory and movable nature; and besides, this indulgence to strangers is necessary for the advancement of trade. Aliens also may trade as freely as other people; only they are subject to certain higher duties at the custom-house. The children of aliens, born here in England, are, generally speaking, natural-born subjects, and entitled to all the privileges of such.

A *denizen* is an alien born, but who has obtained by royal gift letters patent to make him an English subject: a high and incommunicable branch of the royal prerogative. A denizen is in a kind of middle state between an alien, and natural-born subject, and partakes of both of them. He may take lands by purchase or devise, which an alien may not. A denizen is not excused from paying the alien's duty, and some other mercantile burdens. And no denizen can be of the Privy Council, or either House of Parliament, or have any office of trust, civil or military, or be capable of any grant from the crown.

It goes without saying that has changed since Blackstone laid out the pre-enlightenment provisions of subjecthood in Common Law, no less in England than in other parallel Euro-American jurisdictions. Most notably the steadily become more sovereign status of Parliament has meant that the feudally defined status of royal subjects have steadily been redefined in such a way that they have become republican citizens.

Nevertheless the distinction between the three population categories which Blackstone identifies – in modern parlance as between fully fledged citizens, with all the innate rights and duties to which that status gives rise, temporary visitors with no such rights, and denizens with at least some of the rights (and most of the duties) of citizens, remains thoroughly meaningful to this day. Of course some of the definitions have changed dramatically. Hence whilst it was once the case that anyone born in territory to subject to the jurisdiction of the Crown automatically gave rise to British subjecthood, legislation introduced during the course of the past half-century has swept away all such pretensions. Birth within the UK no longer automatically gives rise to the British citizenship, whilst several forms of British

citizenship do not even provide those who occupy that status with an automatic right to abode in the United Kingdom.¹

In keeping with these changes one of the most remarkable developments since Blackstone's day – no less in the UK than other jurisdictions – has been a growth in the scale of the presence of non-citizens, whether as visitors or denizens, living alongside native residents; hence despite the efforts of migration managers to exclude unwelcome goats, the goatish population, many but by no means all of whom have the status of denizens rather than citizens, has grown steadily larger, has become a steadily more salient, as well as an ever more firmly institutionalised feature of every Euro-American jurisdiction. Nor are such developments in any way exceptional on a global scale. In many of the oil-rich jurisdictions in the Gulf region, the scale of the denizen population massively exceeds that of native citizens.

The increasing salience of denizenship

The driving force behind these developments is plain to see: it is the outcome of ever more determined efforts by fully fledged citizens to ensure that in the midst of current processes of globalisation – on which their position of prosperity substantially depends – is not eroded by the entrepreneurial efforts of upstart competitors from below. The contradictions which have erupted as a result of their efforts to protect their interests are currently showing up at all sorts of levels: one of the most egregious is that between the world's largest debtor (a jurisdiction which also still considers itself to occupy a position of natural hegemony in global affairs), and an 'upstart' from below whose industrial prowess has enabled it to emerge as the world's largest creditor. However it is not so much the process of global dialectics which the current phase of globalisation which I wish to explore in this context, but rather a more parochial manifestation of those self-same processes: those which have developed *within* the boundaries of contemporary jurisdictions as they have struggled with the consequences of a further distinctive feature of globalisation 'from below': long-distance migration.

There are two more or less independent driving forces behind this phenomenon. On the one hand acute shortages of labour, particularly at the menial and unskilled end of the labour market, which have recently emerged in all the world's most prosperous jurisdictions; and on the other the entrepreneurial initiatives deployed by the residents of more impoverished jurisdictions to take advantage of the opportunities for rapid upward mobility potentially available both for themselves and their offspring should they manage to establish themselves

¹ Those in this position include British Overseas Citizens and British Protected Persons.

as permanent residents in more affluent jurisdictions elsewhere. Such opportunities only became seriously available as a consequence of the economic boom which most Euro-American jurisdictions experienced in the aftermath of the Second World War. This was also a period in which there appeared to be no immediate challenges Euro-America's position of global hegemony, so much so that it was widely assumed that this would be a win-win situation for all concerned. Immigration 'from below' provided a means of filling gaps in the labour market quickly and cheaply; meanwhile migrant workers, however poorly paid they might be by the local standards, could fill their pockets with gold, at least in terms of expectations in their native jurisdictions. However very little attention was paid to the long-term implications of these initiatives, whose structural implications in due course proved to be closely akin to those which emerged in the South African system of *apartheid*. However it took some time before these parallels to become apparent.

Settlers from Britain's former imperial possessions who arrived in the UK in the nineteen fifties and sixties found themselves in a remarkably privileged position, at least as far as their legal status was concerned. Given that the ideological assumptions of Empire were still firmly entrenched in English, their formal status as Commonwealth citizen, they assumed the status of British subjects the moment they stepped ashore in the UK. As a result they not only enjoyed unrestricted rights of entry into the UK, but having done so acquired just the same civic rights as British citizens of native birth. Hence even if there was a sense in which they were *de facto* denizens, given that few of the early settlers had any immediate intention of taking up permanent residence in the UK, and even fewer members of the indigenous majority expected them to do so, most not only settled down in their new environment, and in due course exercised their unrestricted rights to call their wives and children to join them. However that state of affairs did not last long. From 1962 onwards a series of Commonwealth Immigration Acts steadily eroded the privileges of 'New Commonwealth' citizens (or in other words those of non-European origin), which were eventually comprehensively eliminated in the British Nationality Act of 1981. But whilst the principal driving force behind these legislative changes – together with many additional Immigration Acts which have been brought into force since 1981 – was to bring the inflow of non-European settlers to a halt, or failing that to ensure that those who succeeded in using well-established paths of chain migration to enter the UK come what may would only be admitted as denizens rather than citizens, the inflow has continued almost unabated. As migration managers in many

other jurisdictions have also discovered, once a migratory inflow becomes well established, it is exceedingly difficult to bring it to a halt.

Alterity and the Legitimation of Exclusion

That these legislative measures were defensive in character is quite clear: their introduction became inevitable as successive Governments became aware the popular demands for the introduction of such measure were so intense that they could hope to stay in power if they failed to do so. These popular demands saw the migrant ‘threat’ as being as two-fold in character. In the first instance was widely held that as migrants and their offspring became increasingly numerous their presence was placing an unacceptable strain on scarce resources – especially in terms of jobs, housing and public services – to the detriment of the interests, and indeed of the rights, of members of the indigenous population. Secondly, and just importantly, the steady growth of ethnic colonies precipitated further waves of hostility to the migrants’ intrinsic alterity. At the outset this was directed at primarily at their physiological alterity, but as time passed it began to lodge ever more firmly on the new minorities’ dogged determination to maintain a sense of social, religious and cultural distinctiveness, with the consequence – or so it was argued – that the very integrity of the established socio-cultural order was being put seriously at risk. To put the matter plainly, it is the additional dimensions of *plurality* which the alien newcomers, and most especially those of Muslim origin, have introduced into the fabric of Euro-America’s established Christian and post-Christian social order which have become the focus of intense popular hostility.

These developments were not unique to Britain. Rather they have been repeated, often with greater levels of intensity, across the length and breadth of Western Europe. This has led to some radical changes in public policy. In the British case they have resulted in a *laissez-faire* attitude towards the minorities’ tendency to maintain a sense of cultural distinctiveness, subsequently identified ‘multi-culturalism’ to be abandoned in favour of a much more explicitly assimilationist policy of ‘community cohesion’. (Ballard 2007). This newfound initiative has had many dimensions, including

- Efforts by the authorities to persuade the minorities to abandon the most egregious aspects of their religio-cultural traditions, as for example in their efforts to promote ‘moderate Islam’.
- Efforts to criminalise unacceptable dimensions of minority practice, including forced marriage, honour killings, cousin-marriages, out-door cremations, people-smuggling

and the use of *hawala* networks as a means of implementing transjurisdictional value transfers.

- The construction of ever more stringent tests of assimilative achievements – including fluency in the English language, knowledge of British constitutional history and its associated cultural practices, and evidence of civic involvement with majority institutions – as a prerequisite for naturalisation, or in other words of conversion of one's legal status from that of a denizen to that of a fully fledged citizen.

To the extent that a substantial proportion of new minority population have resisted these pressures to conform, and that chain migration has been sustained willy nilly, albeit on a reduced scale, the scale of the *de jure* denizen presence in Britain is expanding rapidly. That is not to suggest that the majority of members of the new minority presence in Britain have such a status. Most entered (or were born in) Britain before the gates of exclusion slammed shut. Nevertheless many of them remain indistinguishable from mere denizens in the eyes of the indigenous majority, if only because they so often highlight, rather than seek to cover up, their on-going commitment to socio-cultural alterity.

Why, though, should the new minorities be continuing to act in such an intransigent fashion? From a majority perspective their behaviour seems nothing less than perverse, since their strategic choices appear to have had entirely counter-productive consequences. However that is to consider what is best understood as a dialectic process from one side of the fence. Once a subaltern perspective 'from below' is brought into focus, a radically different picture emerges. As I argued over thirty years ago

Over the past ten years, 'immigration' has become a political issue which has generated a great deal of heated argument. Many people now believe that there are too many 'immigrants' in Britain and that their presence constitutes a problem. British society has become polyethnic in the last two decades, and the new ethnic colonies are feared not only because they symbolise material competition by inferiors but also because they appear to pose a threat to the integrity of well-understood cultural patterns and institutions. The more these changes are regarded as unacceptable and, hence, generate open hostility on the part of the white majority, the more strongly ethnic colonies will reinforce themselves. (Ballard 1977: 55)

The dynamics of ethnic colonisation 'from below'

Much of the recent discussion of the dynamics of long distance migration 'from below' in both official and academic circles has been remarkably myopic in character. All too often the capacity of migrants to act as agents in their own cause is overlooked, as is their capacity to tap into the resources embedded in their (widely varying) cultural traditions as a source of entrepreneurial inspiration, thereby to make the most of every opportunity that comes their

way. Hence whilst ‘pull’ and ‘push’ factors remain, as ever, the most potent driving forces behind the overall dynamics of long-distance migration, in any given diasporic context those basic parameters are further conditioned by a wide range of additional factors grounded in and articulated through self-generated initiatives developed and deployed on an entrepreneurial basis by the members of each such diasporic network.

The issue of *networks* in this context is crucial. Only a tiny minority of migrants – especially in the case of those pressing upwards ‘from below’ – set off into the blue on a wholly individualistic basis. Instead the vast majority follow in the footsteps of a known predecessor, and in doing so aim for a known destination; and when they arrive at their destination, they invariably get in touch with their kinsfolk back home, even if they were shipwrecked along the way and find themselves ensconced at a destination quite different from that at which they had originally reached. From this perspective it is worth remembering that right from the outset, processes of long-distance migration also give rise to long-distance networks of communication, primarily running along intrinsically parochial linkages of kinship; moreover if the news about the opportunities from overseas destinations is positive, it soon stimulates an outflow of entrepreneurially minded young men to each such destination, news of whose successes stimulates yet more successors to follow in their footsteps in a pattern of chain migration (Ballard 2009a).

Chain migration of this sort has many consequences. In the first place it leads to the construction of what I have found it convenient to describe as ‘escalators’: socially and culturally grounded networks of reciprocity running from specific localities (villages, descent groups and so forth) in less prosperous parts of the globe, which facilitate the swift and efficient delivery of their ‘passengers’ to one or other of the specific locations in which members of that group have established themselves overseas. Whilst the construction of such escalators was unproblematic prior to the erection of exclusionary border controls, recent legislative initiatives have criminalised these practices. As a result anyone who is identified as facilitating such practices is currently in danger of being charged with the offence of ‘people-smuggling’.

A further consequence of the construction of such escalators – which are still very much in operation, despite ever more intensive efforts by migration managers to bring them to a halt – is that they deliver large numbers of people of similar backgrounds into equally specific localities overseas. Hence they actively facilitate the growth of ethnic colonies, whose members typically make strenuous efforts to reconstruct all the most significant social,

cultural, religious and familial institutions of the homelands in order to facilitate their survival in their new, alien, and often far from welcoming social and cultural environment. It is precisely this tendency of the settlers to look after each other on their own terms, and to utilise the resources of their cultural heritage to carve new niches for themselves to press their way forward in their new environment come what may – a typical feature of all mass migratory processes – to which members of the indigenous population of Euro-America have recently begun to object with such vigour.

However a third salient characteristic feature of these escalators – their capacity to facilitate circular no less than one-way trips – is proving to be yet more significant still. Riding on the back of the revolution in communications technology, the transjurisdictional networks to which these escalators gave rise now facilitate the circulation of information, assets and personnel as between all the many points around the globe at which the members of that network have established a local presence. As a result each such diasporic network is in a position to take advantage of globalisation on the same strategic basis as that adopted by multi-national corporations. In a manner which runs entirely parallel with their massive counterparts operating ‘from above’, members of diasporic networks are in a position to redistribute assets, ideas and personnel around the globe in whatever manner they find strategically advantageous, regardless of the nominal constraints imposed by jurisdictional boundaries. As a result these networks have also gained the capacity to act ‘translegally’, as Beck (2006:72) has put it. No less than their counterparts operating hegemonically from above, their location in transjurisdictional space provides members of diasporic networks with endless opportunities to evade, and hence to subvert, the control which more parochially oriented national jurisdictions might seek to impose on their transjurisdictional activities.

However one must be careful not to press this analogy too far. Multinational corporations have a great deal of political and economic clout; they carry out their business on a contractual basis, their accounts are audited by one or other of the four remaining global accountancy firms, and they hire teams of expensive lawyers to ensure that their operations, no matter how arcane they may be, can be represented as lawful. However South Asian migrants’ transjurisdictional networks – unless they happen to have been constructed by a Mittal, an Ambani or a Tata – enjoy no such privileges. Worse still, their networks are most usually constructed around informal reciprocities of mutual trust, rather than around formally constituted relationships of contract. As a result they are acutely vulnerable to prosecution on the grounds of non-compliance with regulatory requirements, given that it can readily be

argued that such non-compliance is merely a cover for some sort of transjurisdictional criminal conspiracy.

Borders and transgression

In so far as the central objective of constructing borders is to control, and very often to tax, the passage of goods and persons as and when they move from one jurisdiction to another, all such borders invariably attract, and indeed create, a class of persons who have developed strategies by means of which evade such restrictions. Smugglers and borders are natural partners. Moreover the stricter the degree of border management, and the greater the advantages are likely to accrue the evaders of such controls, and the more complex and inventive the tactics of would-be transgressors will tend to become; moreover the more successful such strategies of evasion become, the more elaborate the efforts to defend the border will tend to become. Physical obstacles such as walls and fences become higher and longer, and/or an ever more intensive systems of scrutiny aimed at distinguishing legitimate sheep from illegitimate goats will begin to be devised. So far as I am aware no known borders are smuggler-free. Tactics vary. Some are quite straightforward: dangling sufficient volumes of cash before relatively impoverished border guards is often a means of persuading them temporarily to look the other way. Tunnels can be dug, and gates can be cut in fences. However, the most strategic advantageous option by far is to find a loop-hole by means of which to facilitate the passage of goods, assets, ideas and personnel across the disjunction on a legitimate basis.

The dialectics of borders and border control in a globalising world

In the light of such considerations it is worth remembering that the dialectics of border control are in no sense a novel phenomenon. Ever since states began to gain the sufficient capacity to create, and to exercise control over, fixed geographical borders – a process which more than four millennia ago – border guards and those seeking to evade them have been playing ever more elaborate games of cat and mouse with one another. As the centuries have passed, both the location and character of jurisdictional disjunctions have been subjected to a bewildering range of changes, driven, amongst other things, by the ever burgeoning progress of globalisation. It follows that to make good sense of these developments, including those with which we currently find ourselves confronted, it is essential to consider them in the context of the *longue durée*.

It was not long before the city-states of the ancient world found themselves swept up into ever wider imperial jurisdictions. As a result the relatively parochial jurisdictions were swiftly subsumed within much more extensive administrative units, whose leaders regularly went to war with one another whenever and wherever their geo-political interests clashed. But as the tale of Ozimandias reminds us, even the mightiest Empires only enjoyed a limited lifespan. Imperial boundaries came and went along with the regimes which established and sought to defend them; and in the aftermath of their collapse, innumerable more parochial jurisdictions emerged – until they, too, were swept up into yet another imperial structure. From this perspective the expansion of European empires on a global scale from the seventeenth century onwards was not, in itself, a novel phenomenon. Nevertheless two features of these developments served to distinguish them from their predecessors. First their expansion was not, for the most part, at the expense of their immediate geographical neighbours: theirs was a process of *overseas* expansion which, by the beginning of the twentieth century, had subjected close to the landmass of the whole of the rest of the globe to the control of one European jurisdiction or another. But these edifices also turned out to be unstable. Largely as a result of two immensely destructive phases of global warfare, precipitated as much by internecine quarrels between established Empires as by desperate efforts to get to the table by those who felt they had been left out, all these edifices collapsed during the course of the twentieth century – leading to the emergence of a multitude of newly articulated nation states, all with their own (often vigorously contended) borders.

However much more was also changing as all this was going on. Thanks to their ruthless willingness of to deploy force of arms to get their own way, together with their success in mechanising the initially significantly more technologically advanced, but still labour intensive, manufacturing achievements of India and China, European jurisdictions, led most spectacularly by Britain, were able to reinvent themselves as the hubs of global trading networks as the second phase of globalisation² took off, to their immense material advantage. Moreover whilst administrative disjunctions *between* each of these imperial structures were ever more strongly marked, and were often a *causus belli*, those within them were routinely dismantled in the interests of ‘free trade’. The result was a new world order in which the inhabitants of Euro-American hubs grew increasingly prosperous, whilst the inhabitants of

² In my view the first phase of globalisation took off in the shape of ancient patterns of long-distance trade between China, India and what in due course became the Islamic world, and which reached its apogee with the exploits of Admiral Zeng He’s trading fleets in the early decades of the 15th Century. (Ballard 2010)

their possessions elsewhere became steadily impoverished, in many cases absolutely as well as relatively. If most of these imperial structures celebrated the wonders of boundaryless free trade, they were careful only to implement this program within the limits of their own parochial/global jurisdiction, and to organise it in such a way that the benefits of the whole exercise were concentrated at the hub, to the necessary disadvantage of the periphery.

But whilst remnants of the structures generated during the second phase of globalisation remain in place, they are being steadily undermined by those more characteristic of the third, in which the BRICS, led by China and India, have begun to replace Euro-America as the global hubs for manufacturing activity. Suddenly the world's prosperous regimes have found themselves on the defensive as a result of the emergence of transgressive competitors from below, and hey presto!, the rules of the games are changing. Only a decade ago the Washington Consensus was still firmly in place, such that key agencies such as IMF, the World Bank and the WTO were still urging jurisdictions throughout the 'developing world' – or in other words Euro-America's former colonial possessions – to remove all their tariff barriers in order to promote free trade on a global basis. But with the onset of the twenty-first all this has been turned on its head. In the aftermath of 9/11, and above all its own self-generated credit crunch, the United States and its immediate European acolytes have changed tack, and have set about reinforcing their own borders in an effort to keep these new sources 'unfair competition' at bay.

Viewed from the *longue durée*, there is nothing particularly novel about such swings of the pendulum, and the emergence of a new set of dialectics of closure. Nevertheless there is much that is distinctive about current developments, largely as a result of the onrush of process of globalisation which have precipitated this very outcome. Like it or not all the world's economies are now interlinked by trading networks of unprecedented scale, so much that a significant down-turn global trade would have a catastrophic impact on every current economic jurisdiction – with the possible exception of North Korea. But if long-distance trade in goods and services has become the contemporary world's economic lifeblood, these activities are sustained by an even more globalised, and hence footloose, capital markets. Now that an instant global messaging system is in place, any jurisdiction which seeks seriously to constrain the transfer of value across its borders readily be brought to its knees. In such a world, jurisdictional closure has become an ever more challenging task.

Migration management in the third phase of globalisation

No contemporary jurisdiction, no matter how powerful, appears to have the capacity to mount a serious challenge to those institutional networks through which processes of globalisation from above are implemented. Any such threats are met by open blackmail: that their whole operation will be floated off to some more welcoming jurisdiction elsewhere, sometimes to India, China or even London, but better still to exotic locations such as the Cayman Islands, whose whole economy revolves around acting as tax and regulation-free havens for the wealth of individuals and corporations whose business is overwhelmingly implemented elsewhere. But whilst those operating transgressively 'from below' are having a much tougher time as they seek to make the most of global opportunities, those seeking to prevent them from so doing found that meeting the objectives they have been set is far from easy.

In the first place the underlying economic logic which drives the transjurisdictional migratory movements which they are seeking to contain works systematically against their objectives; moreover there is every reason to expect that this will continue so long as there are unfilled niches in the employment markets of prosperous jurisdictions which the indigenes are unwilling to occupy. That seems unlikely to occur any time soon. Secondly, and just as significantly, the prospect of the authorities being able to ensure that those recruited to fill these niches can all be permanently restricted to the status of readily re-exportable denizens seems equally unlikely, at least so long as chain migration remains a potent force. The unfortunate fact of the matter – at least from the perspective of the architects of migration management – is that migrants are not just agents in their own cause, but that their ethnic associates have already established substantial bridgeheads within the walls of the jurisdiction. As a result new arrivals – whether or not their mode of entry into the jurisdiction was licit in character – can expect a friendly welcome from predecessors of a similar origin to their own; worse still, the majority of their predecessors have by now become gained access to local citizenship.

All this presents migration managers with further headaches. How, in the light of all this, can they find a legal means of ensuring that goats-turned-sheep can be thwarted in their efforts to use the privileges associated with citizenship to facilitate the passage of further goats – most usually their own kinsfolk – through the exclusionary sieves of the jurisdictions carefully constructed boundaries? Their efforts to do so have given rise to complex strategies designed to undermine the capacity of goats turned sheep have gained legitimate access, migration managers become ever more concerned to subvert the objectives of border control. This has

proved to be an extremely tricky task, given the need to respect rights to which fully fledged citizens have inescapable access on the one hand, and to ensure that the measures taken will not be struck down by the courts as illegitimate on the other. During the course of the past decade two new, and so far highly effective, strategies by means of which these twin objectives can be achieved on a legitimate basis have begun to emerge. These have been grounded in concerns for public safety, most especially with respect to the need to implement effective counter-terrorist strategies; and on the other in terms of human rights, which are increasingly being utilised as a vehicle for suggesting that many aspects of non-European familial and cultural practices are inherently illegitimate, such that their perpetration can readily be identified as criminal offences of one kind or another.

On the pernicious consequences of family life

Given the current premises of migration management, anything which provides labour migrants with a means of stabilising their condition of denizenship is regarded as being as unwelcome as it is counter-productive, since it compromises their position as mobile (and hence readily disposable) units of labour. Hence whilst there is no objection to them leaving their familial dependants back home in their countries of origin, or to their propensity to remit a substantial portion of their earnings back home to support them, any sets which they might take towards involvement in familial entanglements at their destination – whether in the form efforts to facilitate the entry of further kinsfolk through the jurisdictional boundary, or by creating *de novo* ties of kinship or marriage within it are regarded as unwelcome.

Examples of remedies to problems of this kind are readily available. South Africa led the way in this field by using the Group Areas Act to create internal jurisdictional boundaries, accompanied by a regime of border controls and passes which required labour migrants from the Bantustans to return to their homeland as soon as they ceased to fulfil a positive economic role in the white economy. The challenge facing contemporary migration managers is to find a means of precipitating a similar outcome, but on a more legitimate basis, such that arguments that they are constructing yet another *apartheid* regime can readily be repudiated.

The solution, so far as I can see, has been to rejig the logic on the basis of which the South African authorities legitimated of *apartheid*. Whilst the core principle on the basis of which jurisdictional disjunctions around *apartheid* was constructed, and hence legitimated, was explicitly racial, this was also accompanied by a parallel ethno-cultural subtext: that these measures would serve to ensure that the civilised world of white South Africa would not be

undermined by the forces of primitive African barbarism. Meanwhile this was ultimately underpinned by a third, but usually unspoken, strategic premise: that the whole edifice served to protect members of a privileged elite from the transgressive activities of unwelcome competitors from below. Against that background, the solutions currently being devised by European migration managers simply reverse the order of the first two principles, such that their exclusionary sieves are formally tuned to operate on an ethno-cultural, rather than an explicitly racial, basis.

It has taken some time for this policy to emerge fully-fledged from its chrysalis. In the UK, migration managers have been wrestling with issues of family and kinship, and above all that of marriage, for close to half a century. When immigration controls were first introduced in 1962, their aim was to constrain the inflow of 'primary migrants': young adult males seeking employment. But since those entering the UK from its former imperial possessions acquired the same legal status as indigenous citizens the moment they stepped ashore, no restraint was placed, or indeed could be placed, on their right to reunite their families at their destination.

Since then much has changed. On the one hand the privileged position of Commonwealth citizens has long since been stripped away, to be replaced by an ever-lengthening series of administrative hurdles in the way of access to naturalisation – leading, amongst other things, to a rapid growth in the number of persons trapped in various forms of denizenship. Meanwhile all manner of initiatives have been introduced in efforts to undermine the efforts of members of the new minorities, whether their status was as citizens or denizens, to exercise their (steadily shrinking) rights to reunite their families in the UK.

The first step along this path was to restrict such rights of reunion to the dependants of established settlers, so entry to the UK was restricted to children still under the age of 18, and adult dependants over the age of retirement; these restrictions were further reinforced at an administrative level by ever more intrusive demands for documentation, and even when that was available for further proof that the documents were authentic, and/or whether those involved were actually related as claimed. Nevertheless it still left a further loophole wide open: marriage. Once again all manner of administrative obstacles were introduced with the objective of curbing the inflow along this route. These included virginity tests and the 'Primary Purpose' rule (Sachdeva 199?), which required incoming spouses to prove a negative: that their primary purpose in getting married to UK-based spouse had been something other than gaining entry into the UK. In due course all these initiatives fell by the wayside as inoperable. DNA testing the vast majority of 'not related as claimed' decisions

were unfounded, whilst Primary Purpose rule was abandoned in the face of acute legal unease, reinforced by the prospect that it would fall foul of the provisions of the European Convention of Human Rights.

Nevertheless in a viable means of squaring this particular circle emerged in the opening of the twentieth century. Faced with the challenge of finding a way of to establish the legitimacy of an exclusionary practice whose objective was manifestly discriminatory, European migration managers spotted a means of going for the jugular: if they could devise a set of immigration rules whose purpose was ostensibly grounded in efforts to promote and defend human rights, rather than in efforts to trash them, they could turn the tables on their most voluble critics. Hence the most salient feature of twenty-first century strategies has been to articulate, and hence to legitimate, exclusionary strategies on a *positive* basis, on the grounds that the new measures had been designed to protect members of minority communities who might otherwise have found themselves victims of patriarchy, forced marriages, female genital mutilation, honour killings and other such backward and exploitative traditional human wrongs.

Squaring the circle: the role of Unni Wikan and her allies

How, though, was the jump from crusading effort to right – or at least mitigate – such wrongs to rejigging the logistics of border control to be achieved? After all those responsible for managing the inflow of personnel across jurisdictional borders did not have judicial powers, and hence were in position impose sanctions on the perpetrators of such criminal and criminalisable activities. Hence the inspiration for such initiatives did not emerge directly from debates about how the authorities might implement border controls on a more effective basis, but rather from a parallel debate about how far those who had already managed to establish themselves within the borders, sometimes as denizens, and not infrequently as citizens, were actually organizing their domestic lives on a civilized basis.

The first serious stone thrown into the pond from this direction was launched by Unni Wikan, in the shape of her much quoted book *Generous Betrayal: the Politics of Culture in the New Europe*. On the basis of a series of small number of narrowly focussed case studies of young Muslim women whose parents or husbands had settled in Norway, but who subsequently found themselves in severe difficulties in domestic contexts, Wikan developed an elaborate series of arguments in which she suggested that these young women had been let down by,

and indeed had been comprehensively betrayed as a result of, the Norwegian state's ultra-liberal response to cultural diversity.

Having approvingly quoted a comment by Finkelkraut to the effect that

Attempting to minimize the brutal experience of leaving home, we turn immigrants over, bound hand and foot, to other members of their collective community living abroad. In so doing we end up limiting the application of the right of man only to societies identified with the West, believing all the time that we have expanded these rights by giving peoples of other traditions the chance to live by the laws of their own cultures.

On this basis Wikan goes on to argue that

Multiculturalism is the position that all cultures are of equal value and should be granted equal respect; hence all should have an equal place within the colorful community. But if people are presumed to prefer their own kind and to take pride in their own distinctive roots, how can they be expected to grant each other equal respect? Multiculturalists try to resolve their conundrum by preaching cultural relativism. People must be taught to respect other cultures and see the value of their traditions and products. And the place to begin is in school: teach children that all cultures are equally deserving of respect. As we have seen, this position has informed Norwegian immigration policy; and it is one for which Aisha, among others, paid the price. Equally worthy of respect – or you are a racist! The deadly word has been used to make people subservient to cultural relativism in many cases where culture was not worthy of respect. (Wikan 2002: 145-6)

For Wikan, and many for others who have followed in her ultra-feminist footsteps, religion in general, and Islam in particular, not just committed to the suppression of freedom of thought and personal liberty, but also to unconstrained patriarchy, which has in turn precipitated the personal disasters which she highlights in her largely uncontextualised case studies. That the personal disasters of the kind she describes deserve our careful attention is incontestable. I, too, have encountered such incidents in the course of my fieldwork, and have acquired all manner of insights have prepared expert reports for use in criminal proceedings precipitated by more than thirty incidents of familial homicide involving South Asian settlers and their offspring in the UK. However I do not share her conclusions (Ballard 2011).

What is striking about Wikan's monograph, is the certainty with which she allocates the blame for incidents of this kind. She has two interlinked targets: on the one hand the oppressive, authoritarian, patriarchal and honour-driven traditions which Muslim settlers have brought with them to Norway, and on the other their lily-livered betrayers: the libertarian anti-racists who could not bring themselves to condemn the inhumane and oppressive religious and cultural practices which the settlers had brought with them. My own conclusion with respect to these issues, as well as those of many other anthropologists with a

similarly lengthy degree of ethnographic experience, differed radically from those of Wikan. Nevertheless her arguments touched a sensitive button, and her monograph soon became a much-publicised best seller.

It achieved that status as a result of attracting the enthusiastic attention of two hitherto quite separate audiences: firstly amongst those of a more or less radical feminist persuasion, who took the view that the plight of women in societies in which gender divisions remain significantly more strongly marked than is currently the case in indigenous Euro-American contexts are the outcome of a particularly egregious – and hence intrinsically intolerable – form of patriarchy; and secondly, and in many ways even more significantly, her work also attracted the attention members of that section of the population whose members were deeply hostile to the very presence of settlers of non-European origin in their midst, on the grounds discussed earlier: namely that they newcomers represented a threat to the integrity of the established socio-cultural order. This otherwise unlikely alliance proved to have explosive consequences. Once xenophobia has been legitimated on progressive/feminist grounds, hitherto subterranean feelings of hostility towards the new minorities which had hitherto been concealed for fear that their articulation would be read as signs of irrational prejudice could at long last be put to one side. In the popular imagination Wikan, together with a small number of radical feminists who followed in her footsteps, had revealed another side of the coin: that if left untamed, the religious and cultural features were bound to become an ever more serious threat to the progressive, egalitarian and liberal premises which underpinned the established socio-cultural order. Expressions of xenophobia, or to be more precise, hostility to the new minorities' maintenance of a sense of ethno-religious distinctiveness suddenly gained legitimacy, especially in the aftermath of the events of 9/11. As this occurred three otherwise largely unconnected features of the minority presence – the construction of minarets, the adoption of the *hijab* and the phenomenon of 'honour killing' came to be regarded as symbols of the unacceptable character minority alterity, on the grounds that they encapsulated the grounds on which the values which they symbolised were an aberration from, and indeed a threat to, the civilised standards of the jurisdictions within which the newcomers had established themselves.

With such considerations in mind, Wikan goes on, in the final chapter of her book, to consider the obligations to which she considers citizenship gives rise in contemporary democracies.

The obligations of citizenship

As we saw earlier Blackstone was quite clear as to how this matter stood in England towards the end of the eighteenth century:

Natural-born subjects are such as are born within the dominions of the crown of England, that is, within the allegiance of the king; and aliens, such as are born out of it. Allegiance is the tie, which binds the subject to the king, in return for that protection which the king affords the subject.

Much has changed since then. As monarchies constructed around the feudal concept of allegiance of their subjects the sovereign have steadily been replaced by nation-states constructed around the republican premise of citizenship, the concept of subjecthood has become steadily more anachronistic. We are all citizens now. But just what makes us citizens, now that the notion that we acquire the rights and duties of allegiance to a monarch as ‘natural’ consequence of having been born within the jurisdiction over which he holds sway has been swept away?

In the UK, although not in the United States, the concept of *jus soli* was eliminated at a stroke in Nationality Act of 1981. That same act also redefined the status Britain’s overseas subjects (a legacy of Britain’s former imperial jurisdiction) as British Overseas Citizens, whose citizenship is deficient in one significant respect: such persons no longer had automatic right to enter, and still less to settle, in the jurisdiction in whose name their passports were issued. Furthermore the acquisition of British citizenship was likewise restricted solely to locally-born children of at least one of whose parents was a fully fledged citizen. Those infants who did not meet that requirement joined the ranks of denizens.

Remarkably enough, however, to this day the concept British citizenship is in formal terms almost entirely restricted to its holder’s immigration status. It has nothing to say about a yet more pressing issue: namely just what is it that binds the citizen to the state – and the state to the citizen? In other words what are their respective rights and duties, now that the feudally grounded concept of allegiance has been swept away? At least since 1789 the answer to that one in republican contexts has (at least in principle) quite clear: the feudal principles would henceforward be reversed. The state was from now on to be regarded as a creation of ‘we, the people’, or in other words of its free and autonomous citizens: the feudal concept of subjecthood was consequently consigned to the dustbin of history in the face of the burgeoning forces of democracy.

However this vision also raised an even more pressing question: just who were ‘the people’ on whose behalf such newly constituted democratic edifices were to be constructed? However much the revolutionaries of the late eighteenth century may have been inspired by the Rights of Man, their outlook was far from universalistic. In addition to overlooking the rights of half of humankind, as Mary Wollstonecraft promptly pointed out, they were also committed nationalists. As was abundantly clear in the case of the exemplary pioneer, France, the democratic states which were a product of the premises of the enlightenment would of necessity be *nation* states, each of which were bound together not so much by the accident of birth, but rather as a result of their citizens’ common (and distinctive) moral, cultural and linguistic traditions. That was what *la patrie* was all about. But if nation states were by definition inclusive of all those loyal to the principles and premises of *la patrie*, they were equally exclusive of all those who outside that moral universe. Citizenship became an ipso facto *national* phenomenon.

This is precisely the foundation of the arguments which Wikan develops in the final chapter of *Generous Betrayal*. Utilising her routine tactic of quoting the opinions of others, she begins by quoting the verdict in a case in which she herself had acted as an expert witness:

The case arises from culture conflicts. But it is the parents who have chosen to live in Norway. After many years of residence here, they are fully aware of how Norwegian society functions, for better or for worse. That they wish to maintain the customs of their country of birth is unobjectionable, as long as these customs do not come into conflict with Norwegian law. Children can develop in ways that are different from what the parents hope for. But that is the risk in having children, and – not least – in letting them grow up in a different culture. The parents have made a choice as to which country their children will be moulded by. That circumstance may have such consequences as resulting in the case currently before the court. Using violence and forcible deprivation of freedom of movement as an answer is unacceptable.

The court also notes that the family continues to live in Norway and that they have two children below school age who will grow up here. Therefore, there must be aspects of Norwegian society that they, in sum, perceive as more positive than the negative ones.

On this basis she goes on to conclude:

The verdict was a clear statement of what the Norwegian state demands of its citizens, according to the law. And it was historic. It was the first time that the Norwegian courts declared – and in blunt language – what citizenship entails. (Wikan 2002: 191-2)

What citizenship entails, in other words, is the adoption of, and conformity to, the normative ideals and cultural premises of one’s fellow-citizens. However there is no sign that either Wikan or the judge wished or intended that proposition to be taken to the extreme: given the priority which Norwegians give to personal freedom, there is little or no support for the view

that Norway should aim to become a society which was absolutely homogenous in character. Rather the essence of current thinking – not just in Norway, but throughout the Euro-American world – that diversity should be accommodated as a matter of course, but only within limits. As a result the issue in the contexts with which we are concerned here is not so much the existence of diversity *per se*, but rather just how much diversity the state and its citizens should be prepared to accommodate. Hence the substantive issue in question in Nadia's case was whether or not Nadia's parents were entitled to take their daughter to Morocco to arrange her marriage against her wishes. The court decided that they were not.

Moreover as Wikan is at pains to emphasise, this case was not a one-off issue. All the cases she highlights are concerned with familial issues, and above all as to whether it can ever be legitimate for the hierarchically organised relationships of mutual reciprocity in terms of which South Asian, Middle Eastern and North African families are routinely constructed to be allowed out-trump the commitments to individual liberty and personal freedom which lie at the heart of the post-enlightenment premises which underpin the Norwegian socio-cultural order. With this in mind it is striking the Wikan does not bother to discuss the merits and demerits of the differing forms of family organisation to which the differing sets of familial premises and practices give rise (see Shaw 2000, Ballard 2008); instead she takes it for granted that the quality of life within families constructed around post-enlightenment premises of personal freedom are intrinsically superior to those grounded in what she dismissively identifies as the subjugation of women. She was not alone in taking this position: rather her arguments, as well as of those advanced by those who have followed in her footsteps have served to legitimise a wave of hostility towards the new minority presence which began to gather force during the closing decades of the twentieth century, and which burst forth as a tsunami in the aftermath of 9/11, with members of Muslim communities (which now form my far the largest component of the non-European presence in western Europe) as their principal target.

Humanitarian intervention on behalf of the oppressed

The onset of the twenty-first century has witnessed a remarkable turnaround. Just as Euro-America has begun to face up to the prospect that it might be toppled from the position of global hegemony which it has enjoyed for the past two centuries, many of its inhabitants have fallen prey to a fit of concern about the situation in which many non-European inhabitants of the globe find themselves, not so much as a result of imperial policies, but as a result of the oppressive and exploitative character of the indigenous regimes to which they are subjected.

As result ‘humanitarian intervention’ has become the order of the day – especially, although by no means exclusively, with respect to Islamic jurisdictions of one kind or another. Those efforts are currently being ever more widely replicated within many Euro-American jurisdictions. How can these developments best be explained?

Given the evangelistic character of libertarian vision around which the enlightenment was constructed, its premises have in many respects always been a double-edged sword (Gray 2000), for besides seeking to bring to bring liberty and freedom to its exponents, they have also served as a mean of legitimating efforts – and if necessary of *violent* efforts – to liberate the victims of what its proponents identified as unjustified forms of oppression elsewhere. In their efforts to rescue Muslim women from what they perceive as the condition of untrammelled and indeed religiously sanctioned subordination to which these victims so regularly find themselves reduced, Wikan (and her many followers) have taken up precisely this line of argument. They have done so setting one strand of core strand of libertarian thinking, namely that every human cultural tradition is grounded in its own distinctive set of premises and practices, each of which has to be understood in its own terms, against its antithesis, a strand of argument which is even more deeply entrenched in the Janus-faced structure of the enlightenment program: namely that when the chips are down the pursuit of individual liberty trumps all other considerations. If so, it follows that all constraints on individual freedom and personal liberty are *ipso facto* oppressive, and deserve to be swept away by the unilateral flow of history towards a better and inherently singular future (Ballard 2009b).

These are precisely the grounds on which she argues that a policy of respect for alterity constitutes a mistaken course of ‘generous betrayal’. It is an outlook which is generous in the sense that it accepts, and indeed respects, all forms of cultural plurality; but it is nevertheless an outlook which must simultaneously be viewed as a betrayal, in the sense that it overlooks, and indeed fails to recognise the human rights of those subjected to a huge range of Harmful Traditional Practices to which women entrapped in less enlightened (or in other words non-European) cultural traditions so regularly find themselves exposed.³ From a xenophobic perspective, nothing was more welcome than this development. Once this trope – which was firmly grounded in ‘culturalist’ rather than ‘racist’ premises – was firmly established, those

³ For critique of this whole argument which is as incisive as it is illuminating, see Winter, Bronwyn, Thompson, Denise and Jeffreys, Sheila(2002) 'The UN Approach to Harmful Traditional Practices', *International Feminist Journal of Politics*, 4: 1, 72 — 94

riding (and indeed precipitating) the tide of popular hostility to the non-European presence in their midst, as well to the growing salience of the Islamic world in global political processes, at long last had access to progressive and indeed *enlightened* grounds on the basis of legitimate their xenophobic fears. Moreover the premises of ‘generous betrayal’, together with its parallel insistence that what was really required in an enlightened world was humanitarian intervention on behalf of women who found themselves oppressed and suppressed by the impact Harmful Traditional Practices, provided migration managers with a ready means of implementing and justifying powerful new strategies of selective immigration control based on a pressing need to protect the human rights of women and children who are in danger of being transferred across jurisdictional borders against their will (Hagelund 2008). Similar arguments have also been deployed to criminalise unacceptable dimensions of minority lifestyles, most especially in familial contexts, and most recently with respect to the issue of head coverings. Moreover the arguments have now spread well beyond the protection of women, with the result that ever more active steps are being taken to constrain, and wherever possible to outlaw, subversive financial practices such as the *hawala* system, together with equally subversive exercises aimed transgressing the tranquillity of urban landscapes by constructing mosques equipped with deliberately intrusive minarets.

The marginalisation of alterity in defence of ‘civilisation’

In the midst of all this some ever more pressing questions have begun to emerge. Given current patterns of globalisation, just where do the boundaries of Europe lie, and just what interests do these constructions seek to sustain and protect? Are the interests being so defended purely material in character, or are ever more widely articulated popular demands that the inflow of immigrants ‘from below’ should be halted, and better still reversed, driven by some much more abstract concerns, such as what many of the protestors perceive as the defence of ‘civilization’ itself, at least in this corner of the globe? Moreover if that is indeed the case, just how realistic are these objectives, given the historical dynamics of the current phase globalisation? Is such a ‘defence of civilization’ ever likely to be successful, or is it merely a case of barking at the moon? Moreover even if ethnic plurality is here to stay – always presuming it ever went away – just what is so dreadful about such a prospect? Is such a prospect manifestly unliveable with in any circumstances, or is it the case that Euro-America’s current conventional socio-cultural outlook, grounded as it is in a very particular interpretation of the premises of the enlightenment, has become so entangled in its vision of its own intrinsic superiority that it cannot conceive of living in comfortable conjunction with

those who construct their lives around an alternative set of premises? These are large questions, and they have so far attracted far less critical attention than they deserve. It is also self-evident that I cannot hope to address them in any detail in the space available here, even though they loom in the background to everything discussed in this article: all I have done is to begin to break the ice in this arena by exploring these from the bottom up. I have done so in two complementary senses.

In the first place I have carefully avoided the temptation to explore these issues, and most especially the crucial issue of citizenship, in ideological and/or theoretical terms, and hence from the top down; instead I have sought to explore the way in which issues of citizenship, as well as of denizenship, have sprung to the fore in the current phase of globalisation, largely – although by no means exclusively – as a product of the ever more elaborate policies migration of management and border control which have by now been introduced in almost every jurisdiction around the globe.

But whilst it is self-evident that the key driving force behind these initiatives is the competitive pressures which have erupted in a grossly unequal global order of which the established hegemons are rapidly losing control, I also have argued that the driving force behind the dialectics of boundary control has not so much been precipitated by the relative poverty of those who find themselves excluded from the prosperous parts of the global order, but rather by the entrepreneurial, and hence inherently transgressive, efforts of the hitherto excluded to penetrate the barriers which have hitherto precluded them from participating in that prosperity. Moreover the greater and more visible their success in so doing has become, the greater the lengths to which the indigenous inhabitants of more privileged jurisdictions have gone in their efforts to exclude and marginalise these competitive transgressors ‘from below’.

The Empire Strikes back

However this dialectic has by no means been exclusively materially grounded. Right from the outset, the issue of ‘civilization’ has been a key component in the whole process. Whilst all the Empires of the ancient world were more or less comfortably plural in character, those which subsequently constructed during the period Euro-American global expansion were grounded in, and indeed actively legitimated in terms of, a much more unilateral (and hence anti-pluralistic) vision of civilization, in initially rooted in Christianity, subsequently complemented by the values of the enlightenment and neo-Darwinism. Against that

background it should come as no surprise that those self-same tropes, carefully revamped in a modernistic terms, should now be in the process of being dusted off to efforts to hold the barbarians at the gates as the former subjects of their now defunct empires set about striking back.

Alterity – the capacity to outwit the established forces of hegemony by playing aspects of the game according to an alternative set of rules – has always been the one of the most effective weapons of the weak (Scott 1987). Once upon a time it was western Europeans who found themselves in that position in the global arena, but thanks to the fact that their ocean-going ships were built to survive the stormy seas of the north Atlantic, and were consequently able to bear the recoil of heavy cannon, their willingness to use the resultant firepower in a ruthless fashion against the ‘enemies of Christ’, their fortuitous access to ‘free money’ in the silver mines of Potosí, and their latter day technical inventiveness which enabled them to mechanise the long established spinning, weaving, metallurgical and ceramic technologies of India and China, they managed to turn the tables on a global scale. A result they managed to establish themselves as global ‘top dogs’ by the early years of nineteenth century, and hence to proclaim their own socio-cultural order to be the world’s only serious form of civilization.

However their success in pressing all other competitors so far into the margins that they appeared not to count did not last. During the course of the twentieth century the civilizations of India, China and the Islamic world all began to recover their confidence, and to use their own self-generated resources – no less of cultural than a material kind – to challenge Euro-American hegemony; and by the beginning of the twenty-first century it has become increasingly apparent that the worm had turned. However much its indigenous inhabitants may seek to avert their eyes from the prospect, Euro-America can no longer take its position of global hegemony for granted: in an unexpected turn-around (at least from their own parochial perspective) the former imperial powers have suddenly found themselves playing on the back foot. As a result defensive strategies have become the order of the day.

During the course on the nineteenth and twentieth century processes of globalisation were overwhelmingly occidental in character: ‘free trade’, as sponsored by the Euro-American powers, sought to obliterate the borders of oriental jurisdictions, the better to promote the expansion of their massively advantageous position in manufacturing. However their efforts to sustain that in the latter part of the twentieth century failed, partly as a result of the deliberate outsourcing of manufacturing activities to locations where labour cost were lower, but even more so because of the their entrepreneurial energy of their former imperial

subjects. This has taken at least two forms. In the first place the emergence of state-of-the-art manufacturing initiatives in South and East Asia, together with their careful avoidance of arcane forms of financial engineering, and hence the destructive impact of Euro-America's regular credit bubbles. But if these developments served to place the occidental powers on the back foot in economic terms, they have also found themselves facing an equally alarming set of transgressive initiatives from within: those mounted by long-distance migrants who have quietly established a significant foothold with the walls of their increasingly imperilled jurisdictions. In this phase of globalisation – driven as it is by ever more powerful oriental initiatives, which are now beginning to be perceived as emanating as much from above as below – which has begun to generate ever more popular demands that the drawbridge should be raised to keep the barbarians at bay.

History suggests that this is most unlikely to precipitate the desired outcome. As occidental economies have steadily collapsed, and their manufacturing bases have turned into rust-belts, the centre of gravity of the global economy has swung steadily back in an Asiatic direction. But given their unassuageable appetite for manufactured goods, together with the fact that an ever-increasing proportion of the sharpest minds in Euro-American Universities are made up of students of oriental ancestry, merely hauling up the drawbridge and hoping for the best offers no more of a solution than when China and Japan sought to deployed similar tactics in the sixteenth and seventeenth century. However bitter the medicine may be, Euro-Americans can no longer afford to take it as read that the moral and conceptual foundations of their own civilization is superior to all others, most especially since it is becoming increasingly clear that the contemporary products of the premises of the enlightenment have begun to look increasingly moth-eaten, and nowhere more so than in the sphere of personal and family life.

We live in a plural world. We have always lived in a plural world; and if current processes of globalisation have anything to teach us it that gaining the capacity to operate with ease in contexts of ethnic plurality, no less than cooperation and competition, are, and are set to remain, an *inescapable* component of the human condition. If that is indeed the case, it follows that it has now become essential to discard a key trope in enlightenment thinking: namely that in the fullness of time processes of universalisation will lead humankind towards an increasingly a singular future, and hence a uniform condition of homogeneous perfection. Likewise there is no realistic prospect of such a condition of uniformity being achieved even within the parochial context of narrow local jurisdiction.

Regardless of the condition of comprehensive homogeneity which has regularly underpinned enlightenment-generated nationalist dreams, plurality is here to stay. Nor is plurality a recipe for chaos: our ancestors lived with it as a matter of course. It is only the anti-pluralist premises of the enlightenment mainstream, rooted amongst other things in the premises of the treaty of Westphalia, in the teachings of Augustine of Hippo, and perhaps even those of Paul the Apostle which has led Euro-America us to this pass. Contrary to popular assumptions, our ancestors were far more at ease with the prospect of living with difference than we moderns (Ballard 2007). If we are ever to regain the intellectual capacity, as well as the social and cultural skills required to navigate the seas of diversity, we need to step beyond our current condition of modernity, and to relearn the skills of our ancestors, and to which, in a final irony, the transgressors from below whose entrepreneurial efforts are currently such alarm to the indigenous populations of Euro-America owe a substantial part of their success.

As Jagdish Bhagwati argued in *Foreign Affairs* close to a decade ago, such are the scale and complexity of contemporary global movements of persons is such that no amount of visa restriction, of wall building, of maritime surveillance, or to bring his argument up to date, of biometric scrutiny, will enable migration managers to close the gates. Moreover the pass has already been sold: there is no need for a Trojan horse, given the presence of well established ethnic colonies within the walls of each such jurisdiction. Neither the construction of ever finer sieves to control the passage of persons across jurisdictional borders, nor the demotion of substantial part of those resident within them to the status of denizens rather than citizens will resolve these issues, no matter what popular opinion may suggest.

Just when and how these ever sharpening contradictions will be resolved remains most unclear. Nevertheless there is one prerequisite for progress which is plain as a pikestaff. So long as the indigenous population of Euro-America, and especially its opinion formers, doggedly refuse to step beyond the premises of modernity, and hence of the universalistic premises of the enlightenment, they will find themselves trapped behind major conceptual barriers problems which render it difficult for them to appreciate the prospect that plurality might be a *normal* feature of human experience, and one which can readily be accommodated within, and is in many respect a prerequisite for, a viable and equitable social order.. Unfortunately the weight of academic as well as popular opinion in Euro-America seems currently to be backing off in the reverse direction. We continue to do so at our peril.

Bibliography

- Ballard, Roger (2011) "Honour Killing? Or just plain homicide?" in Holden, Livia (ed) *Cultural Expertise and Litigation: Patterns, Conflicts, Narratives* London: Routledge
- Ballard, Roger (2010) "Three Phases of Globalisation: the significance of Dubai's emergence as a trading hub" in Pieterse, Jan (ed) *21st Century Globalisation: Perspectives from the Gulf* Dubai: Sheikh Zaidi University
- Ballard, Roger (2009a) "The Dynamics of Translocal and Transjurisdictional Networks: A Diasporic Perspective" in *South Asian Diaspora* Vol1, (2) 141 -166
- Ballard, Roger (2009b) "Human Rights in Contexts of Ethnic Plurality: Always a Vehicle for Liberation?" in Grillo, Ballard, Ferrari, Hoekema, and Shah (eds) *Legal Practice and Cultural Diversity* Aldgate.
- Ballard, Roger (2008) "Inside and Outside" in in *The Family in Question: Immigrant and Ethnic Minorities in Multicultural Europe*, edited by R.D. Grillo. Amsterdam: Amsterdam University Press
- Ballard, Roger (2007) "Living with difference: a forgotten art in urgent need of revival?" in Hinnells, J (ed) *Religious Reconstruction in the South Asian Diasporas: From one generation to another* London: Palgrave Macmillan
- Ballard, Roger (1977) "The Sikhs" in *Between Two Cultures: migrants and minorities in Britain* Oxford: Blackwell.
- Blackstone, William (1765) *Commentaries on the Laws of England*,
- Beck, Ulrich (2006). *Power in the global age: a new global political economy*. Cambridge: Polity Press.
- Brown, Wendy (2010) *Walled States, Waning Sovereignty* New York: Zone Books
- Gray, John (2000) *Two Faces of Liberalism* Cambridge: Polity Press
- Hagelund, A. (2008) "For women and children!" The Family and Immigration Politics in Scandinavia, in *The Family in Question: Immigrant and Ethnic Minorities in Multicultural Europe*, edited by R.D. Grillo. Amsterdam: Amsterdam University Press
- Scott, James (1987) *Weapons of the Weak: Everyday Forms of Peasant Resistance* Yale University Press
- Shaw, Alison (2000) *Kinship and Continuity: Pakistan Families in Britain* London: Rotledge
- Sachdeva, Sanjiv (199*-) *The Primary Purpose Rule in British Immigration Law* Stoke on Trent: Trentham Books
- Wikkan, Unni (2002) *Generous Betrayal: Politics of Culture in the New Europe* Chicago: University of Chicago Press
- Winter, Bronwyn, Thompson, Denise and Jeffreys, Sheila (2002) 'The UN Approach to Harmful Traditional Practices', *International Feminist Journal of Politics*, 4: 1, 72 — 94