Five Million Germans Come to Denmark—A Thought Experiment

By Alexander Yakobson[*]

Abstract

How would Denmark react to a wave of mass immigration, numbering several million people, from Germany? The question is, needless to say, purely hypothetical—so much so that one may wonder whether posing it, as a thought experiment, can shed any light on real-life issues and controversies on immigration and integration. I would argue that it can, in some ways precisely because the imaginary case is so far removed from what actually happens. It can thus provide an opportunity for addressing some fundamental issues of immigration and modern nation state without the "distraction" caused by the context in which scholarly and public discussions on immigration—at any rate, in the West—are usually conducted.

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A. Western Debates on Immigration

Western discussions on immigration naturally focus on what is specific to the phenomenon of immigration to Western countries in recent decades. The scale of immigration postulated here is, of course, extraordinarily high. Moreover, this would be a massive immigration from a single country; this would, arguably, amplify the significance of the numbers in question still further. Immigration on a massive scale from a single country may be thought to pose a greater challenge to the majority culture than in a usual case of immigration from widely divergent countries and cultures, which produces a number of smaller minority communities rather than a single one that might compete with the majority. However, apart from the challenge presented by the very fact of an usually high number of immigrants coming from a single country, in other respects this would be an "immigration de luxe." Many of the difficulties and challenges which are at the center of debates on immigration would not, presumably, arise in such a case. This assumption makes it easier to concentrate on the question of large-scale immigration as such, absent most of the problems that are usually said to accompany such migrations. A highly developed liberal society will presumably be able, and might well be willing, to accept immigration of this kind on a much larger scale than in the case of other immigrations. But is there, in principle, a numerical limit to this readiness? And if so, what would be the grounds for this, and could these grounds be justified on the basis of liberal-democratic values?

It hardly needs proving that immigration has become an issue of crucial importance in the Western world.[1] Large numbers of immigrants, most from non-Western background, have changed the face of many Western countries. Muslim immigration is, explicitly or implicitly, at the center of most current debates on immigration and integration of immigrant communities. This applies, first and foremost, to Europe. In the United States, the large-scale Hispanic immigration has attracted greater attention,[2] though the issue of Muslim immigration has also been prominent, and is even more prominent now, with President Trump's controversial attempts to impose severe restrictions on it. In the context of discussing the impact of immigration, one often hears expressions of anxiety over the future

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[1] On the distinctive features of the phenomenon of large-scale immigration to the West in recent decades, and the debates to which it gives rise, see LIAV ORGAD, THE CULTURAL DEFENSE OF NATIONS: THE LIBERAL THEORY OF MAJORITY RIGHTS, 19–50 (2015). *See also, e.g.*, STEPHEN CASTLES & MARK J. MILLER, THE AGE OF MIGRATION: INTERNATIONAL POPULATION MOVEMENTS IN THE MODERN WORLD (2009); CHRISTIAN JOPPKE, CITIZENSHIP AND IMMIGRATION (2010); IAN GOLDFIN, GEOFFREY CAMERON, & MEERA BALARAJAN, EXCEPTIONAL PEOPLE: HOW MIGRATION SHAPED OUR WORLD AND WILL DEFINE OUR FUTURE (2011).

[2] *See e.g.* SAMUEL P. HUNTINGTON, WHO ARE WE? THE CHALLENGE TO AMERICA'S NATIONAL IDENTITY (2004); LEO R. CHAVES, THE LATINO THREAT: CONSTRUCTING IMMIGRANTS, CITIZENS AND THE NATION (Second Edition, 2013) (arguing against the 'Latino threat narrative').

of Western civilization—whether the emphasis is on it being liberal and secular, or on its Christian, or Judeo-Christian, heritage, or on both.[3]

The emphasis in these debates is on wide cultural gaps between the immigrants and contemporary liberal, permissive, and largely secular Western society. These gaps are often attributed to the conservative norms prevailing in today's Asian and African societies, and sometimes, more problematically, to Islam "as such". Religious fundamentalism and extremism,[4] and, increasingly in recent years, Islamic terrorism, cause much anxiety. It is often argued that the cultural gaps in question, and the rejection of liberal Western values in various fields by many immigrants, are a grave obstacle to successful integration; this, it is argued, has led to the creation of "parallel societies" and "ghettos." Many European leaders have come out publicly, in recent years, against the once-popular concept of "multiculturalism,"[5] characterizing it as a costly failure.[6] They insisted on a need for both a substantial measure of cultural integration—above all, as regards mastering the "host" country's language by immigrants—and the acceptance of the modern, democratic and secular liberal values reflected in their respective countries' constitutional order. Various European countries have adopted more restrictive laws and policies regarding immigration and naturalization, insisting on greater conformity to the prevailing culture on the part of potential immigrants and potential citizens.[7] Among other things, more stringent tests that

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[3] For a comprehensive and balanced treatment of the subject of Islam's and Muslim immigrants place in the West see CHRISTIAN JOPPKE & JOHN TORPEY, LEGAL INTEGRATION OF ISLAM: A TRANSATLANTIC COMPARISON (2013).

[4] See, e.g., ROBERT LEIKEN, EUROPE'S ANGRY MUSLIMS: THE REVOLT OF THE SECOND GENERATION (2011).

[5] The literature on multiculturalism, its dilemmas, and the tendency in recent years to retreat from it, is vast and growing; the extent of the retreat is contested. For a few examples see NATHAN GLAZER, WE ARE ALL MULTICULTURALISTS NOW (1997); BRIAN BARRY, CULTURE AND EQUALITY; AN EGALITARIAN CRITIQUE OF MULTICULTURALISM (2001): Christian Joppke, *The Retreat of Multiculturalism in the Liberal State: Theory and Policy*, 55/2 BRITISH JOURNAL OF SOCIOLOGY 237–57 (2004): WILL KYMLICKA, MULTICULTURAL ODYSSEYS: NAVIGATING THE NEW INTERNATIONAL POLITICS OF DIVERSITY (2009); Amnon Rubinstein, *The Decline, but not Demise, of Multiculturalism*, 40/3 ISRAEL LAW REVIEW 763–810 (2007); THE MULTICULTURALISM BACKLASH: EUROPEAN DISCOURSES, POLICIES AND PRACTICES (Steven Vertovec & Susanne Wessendorf, eds.) (2010); THE MULTICULTURAL DILEMMA: MIGRATION, ETHNIC POLITICS, AND STATE INTERMEDIATION (Michelle Williams, ed.) (2013); Keith Banting & Will Kymlicka, *Is There Really a Retreat from Multiculturalism Policies? New Evidence from the Multiculturalism Policy Index*, 11/5 COMPARATIVE EUROPEAN POLITICS 577–98 (2013): Christian Joppke, *The Retreat is Real—but what is the Alternative? Multiculturalism, Muscular Liberalism, and Islam*, 21/2 CONSTELLATIONS 286–95 (2014).

[6] Despite the growing tendency to disparage the term, it seems that most criticisms refer, in fact, to the more radical versions of ideological multiculturalism, and not to the legitimacy of cultural diversity as such. The critics still take for granted a much greater degree of cultural pluralism than would have been acceptable, in most countries, in the more distant past; no return to a "mono-culturalism" is envisaged. *Cf.* Alexander Yakobson, *A Jewish State, Multiculturalism, the Law of Return, and Non-Jewish Immigration*, *in* THE NATION STATE AND IMMIGRSATION, THE AGE OF POPULATION MOVEMENTS, 202–03 (Anita Shapira, Yedidia Z. Stern, Alexander Yakobson & Liav Orgad eds., 2014).

[7] *See* ORGAD, *supra* note 1, at 87–115. Christian Joppke holds that overall, despite some restrictive measures, the general long-term tendency of liberalization in access to citizenship has not been reversed in Europe. *See, e.g.,* Christian Joppke, *Comparative Citizenship: A Restrictive Turn in Europe?,* 2/1 LAW & ETHICS HUMAN RIGHTS 1–41;

precede naturalization, and in some cases—immigration itself, have been imposed. These tests require those who seek to join the society in question not merely to demonstrate a basic knowledge of its history, institutions, and language, but also to prove one's acceptance of its fundamental liberal-democratic values—a demand that in itself may be thought to present a dilemma from the viewpoint of liberal values. [8]

In general, those who seek to limit immigration and access to naturalization tend to speak in terms of a need to defend the liberal order—above all, secularism, gender equality, and the rights of LGTB people. Immigration on too wide a scale, within a short period of time, is said to hamper successful integration, both as regards cultivating the right attitudes among immigrants, and on practical grounds.

On the other hand, those who reject this attitude argue that what lies behind the expressions of anxiety in the face of wide-scale immigration—primarily in the case of Muslims, but often also regarding other immigrants from non-Western countries—and behind the tendency to limit both immigration and immigrants' access to naturalization, is, basically, very different from the liberal and secular rhetoric used in this context. The real reasons, it is argued, are xenophobia, racism, Islamophobia, Western feelings of cultural superiority, "white nationalism," a narrowly ethnic concept of national identity, and a refusal to accept and accommodate legitimate cultural differences. Difficulties of integration are attributed, by people who hold this view, primarily—though not necessarily exclusively—to white-Christian prejudice and exclusion.[9] These debates are heavily influenced by participants' divergent views on such fundamental and vexed questions as "the West versus the rest," white people versus people of color, Christianity versus Islam, Western colonialism and its heritage, as well as contemporary global capitalist economy and its impact on non-Western peoples.

CHRISTIAN JOPPKE, THE ROLE OF THE STATE IN CULTURAL INTEGRATION: TRENDS, CHALLENGES AND WAYS AHEAD, Migration Policy Institute (2012).

[8] *See* Liav Orgad, *Illiberal Liberalism: Cultural Restrictions on Migration and Access to Citizenship in Europe*, 58/1 AM. J. COMP. L. 53–105 (2010); HOW LIBERAL ARE CITIZENSHIP TESTS?, EUI Working Paper RSCAS 2010/41 (Rainer Bauböck and Christian Joppke, eds) (2010); *cf.* Sara Wallace Goodman, *Controlling Immigration through Language and Country Knowledge Requirements*, 34/2 W. EUROPEAN POLITICS 235–55 (2011); Andrew Mason, *Citizenship Tests: Can They Be a Just Compromise?*, 45/2 J. SOC. PHILOSOPHY 137–61 (2014).

[9] See, e.g., ANNE NORTON, ON THE MUSLIM QUESTION (2013). The issue of the Muslim veil and the measures taken against it in recent years by several European countries has proved particularly controversial. It has provoked charges of cultural intolerance and, sometimes, Islamophobia disguised as defense of secularism and women's rights—not only on the part of radical critics. *See e.g.*, JOHN R. BOWEN, WHY THE FRENCH DON'T LIKE HEADSCARVES; ISLAM, THE STATE AND PUBLIC SPACE (2006); CHRISTIAN JOPPKE, VEIL; MIRROR OF IDENTITY (2009); JOAN WALLACH SCOTT, THE POLITICS OF THE VEIL (2010); ANNA C. KORTEWEG & GÖKÇE YURDAKUL, THE HEADSCARF DEBATES: CONFLICTS OF NATIONAL BELONGING (2014).

The hypothetical case discussed here is as distant as possible from all these controversies. It deals with immigrants who would, in many ways, be culturally quite close to the host society. They would be closer than non-Western immigrants coming to Western countries, as well as East Europeans coming to West Europe. On the other hand, the numbers postulated are exceptionally high. Naturally, when it comes to the likely reaction of Danish society to this scenario, one can only conjecture—there is no way to prove anything. Opinions may differ on whether the conjectures offered here are reasonable; it is hoped, at any rate, that raising such a question and pursuing this line of discussion may yield some useful insights.

B. Denmark and German Immigration: The Easy Part

So—how would Denmark react to such a wave of immigration, and how, consistent with liberal-democratic norms, should it be expected to react in such a case? Under the present European law, German citizens have a right to move to Denmark, live and work there, enjoy various rights and, in due course, be entitled to naturalization; there is no numerical upper limit to this right. Naturally, the European Union is a union of states none of which is likely to produce vast numbers of people wishing, all of a sudden, to leave their country and settle in a neighboring one. Had this not been the case, European states would not, presumably, have been willing to limit their sovereignty in this respect in order to allow the cross-border freedom of movement in Europe which is one of the great blessings of the Union—and which today appears to be in some jeopardy because of pressures and controversies produced by large-scale immigration of a different kind. If, improbably, Germany were to provoke a mass exodus of its citizens with a plausible claim for asylum under the international humanitarian law, Denmark would be obligated to take these people in, even assuming that this would no longer be a fellow-member of the European Union—under less generous terms, but still, as far as I understand, in unlimited numbers. While any scenario of massive German immigration to Denmark is highly implausible, our concern here is to examine this question from the Danish point of view. Is there a point at which it would be reasonable for Danes to wish to impose a limit of such immigration, and if so, on what grounds?

How would Denmark cope with this situation? First, it should be stressed that Denmark is surely capable of taking in and absorbing great numbers of German immigrants, and would greatly benefit from this in many respects. It can accept and successfully integrate Germans in numbers that are probably much higher than what many parochial people among the Danes would be capable of imagining. Up to a certain point, surely, this would be a great blessing for Denmark, serving its national—understood broadly, rather than in a narrowly ethnic sense—interests. This does not mean that no opposition would arise. Any large wave of immigrants, however unproblematic from the viewpoint of the specific objections usually raised against such waves, is probably bound to provoke opposition. This probably applies with greater force when the immigrants come from a single country; some people in Denmark would probably be quick enough to cry "Germanisation." But good liberals and good Europeans in Denmark would be quite justified in overruling such objections, and it may be hoped that they would be able to persuade the wider public opinion.

The Danish economy would surely prosper as a result; many of the immigrants would be well educated and hardworking, a great boon to the economy and not at all a burden on the Danish welfare state. There would be no need to educate the newcomers as to the Danish norms of individual, and especially sexual freedom and gender equality. Female German immigrants would not, presumably, be dressed in a way an average Dane would find objectionable in any way. No serious threat of German terrorism in Denmark is to be apprehended in such a context. Upon naturalization, people who were formerly loyal to the principles of the German Basic Law would probably find no difficulty at all in accepting the values and principles of the Danish constitution; nor is there any reason to doubt that they would be fully loyal to their new country. The most pronounced differences between the two constitutional systems are the Danish monarchy and the official establishment of the Lutheran Evangelical Church in Denmark; but even dedicated republicans and devout Catholics among German immigrants would presumably be able to adjust, and develop a proper *Verfassungspatriotismus* (Constitutional Patriotism).

In the first generation, German would probably remain the main language of most immigrants, though they would naturally become functional in Danish; their children born in Denmark would be far more likely to have a Danish accent in German that a German accent in Danish. When they started dating their "ethnic" Danish counterparts, the concept of "family honor" would not be an obstacle, in the case of girls, to their integration in this important respect. "Danish" and "German" would not, under such a scenario, function as mutually exclusive terms. Already in the first generation, the "Danishness" of many of the German immigrants would, presumably, have become an important part of their identity. It would be much more meaningful—culturally, socially, and emotionally—than just a matter of where you live, which country's laws you obey, to whom you pay taxes and which country's passport you hold. The country would still be, for all the changes it will have undergone, unmistakably Danish.

No doubt, some German cultural distinctness would be preserved by many for a long time, and Danish culture and the Danish language itself would inevitably be influenced by such an influx; so much the better for Denmark and for the cause of diversity. While some tensions are probably to be expected even under such a "de-luxe" scenario of large-scale immigration, it can be hoped that no deep cleavage within the Danish society, along ethno-cultural lines, would emerge—no Danish "ethnic majority" facing a German ethnic minority.

At any rate, it can be hoped that such a cleavage would not emerge permanently. Most of the "original" Danes would presumably, under such a scenario, react to German immigration in the spirit of what, according to Christian Joppke, is the normal self-perception of people in this position: They would regard themselves as (primarily) not members of a "group" facing another group, but as "individuals whose claims are protected by the liberal

constitution of a strong and uncontested state," in no need for "special rights."[10] Of course, identity is a complex thing. Even under the most optimistic and easygoing scenario, a certain amount of "us" versus "them" "Danes" versus "Germans"—applying to immigrants even after they are naturalized and become legally Danes, and sometimes, probably, to their children too— is to be expected. But if the integration of these immigrants is perceived, overall, as an ongoing success story, there will be little occasion for the non-German Danes to regards themselves as a "challenged majority" in need of "cultural defense."[11]

C.   The Impact of Numbers and Liberal Values

Up to now, our conclusions have been positive and fully in accord with liberal-democratic values and assumptions. Denmark can surely take and integrate a great many Germans, greatly benefiting from the experience. But how many? Would all these things still hold true if we were talking about millions of people? The current population of the country is just over 5.5 million. There is probably no way of knowing what the maximum "technical" capacity of Denmark to receive immigrants is. It may well be much greater than most people would imagine. Many would assume that accepting millions of immigrants would in any case be a practical impossibility for such a country. If so, there is, arguably, no need to address the potentially unsettling question of how Danes could be realistically expected to react faced with such a prospect, and how a good liberal should expect them to react.

In fact, however, it is not clear that accepting millions of immigrants is, for a country like Denmark, a sheer practical impossibility. The possible and the impossible, in this field, are not "objective facts" independent of people's attitudes. The state of Israel accepted, within less than a decade after its establishment, a number of immigrants considerably larger than its original population. This, in the rather desperate conditions that prevailed in the country in its first years, caused huge difficulties, but the country not merely survived the experience: Already in the fifties it was characterized by unusually rapid economic growth, obviously thanks, to a large extent, to the mass immigration. This clearly shows that mass immigration, even on a scale unimaginable for most people, can be not merely feasible but economically beneficial—provided that the parties involved have the right attitude for this. The level of economic and social development in Israel, when it was absorbing the mass immigration of its earlier years, was incomparably lower than that of Denmark today. Most of the immigrants to Israel were much poorer than would be the case with a German immigration to Denmark—many of them were penniless.[12]

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[10] Christian Joppke, *Majorities Need No Rights: A Commentary on Liav Orgad`s* The Law of Majorities, VERFSSUNGSBLOG ON MATTERS CONSTITUTIONAL, 17 February 2016, http://verfassungsblog.de/majorities-need-no-rights-a-commentary-on-liav-orgads-the-law-of-majorities

[11] See *infra* note 14.

[12] On Israel's formative years and the long-term ramifications of the mass immigration that characterized them see generally ISRAELI IDENTITY IN TRANSITION (Anita Shapira ed.) (2004).

Moreover, cultural gaps between the different groups within the emerging Israeli society were very considerable. Some, though by no means all, of the immigrants came with some—often quite basic—knowledge of Hebrew, mainly as a language of religion, but the great majority lacked a common spoken language. Jews from Germany and, say, Yemen, were in many respects more dissimilar, culturally, than Germans and Danes are today. Religion, it is true, served to some extent as a unifying factor—but it also produced wide cultural and emotional gaps, and acute political conflicts. Few Germans and Danes today are as dissimilar, religiously, as radically secular and Orthodox, or ultra-Orthodox, Israeli Jews. Of course, the great majority of the people in question saw themselves, regardless of religiosity, as sharing the same peoplehood, as belonging to the Jewish people. But, without dismissing the power of the idea of Jewish peoplehood and Jewish homeland, liberal democracy, diversity, and European unity are powerful and attractive ideas too. So — is there any reason why Denmark would not be able and willing to integrate, if not, say, eight million German immigrants, if we go by the Israeli example, then, at least, 5 million of them?

Of course, Israel not merely allowed mass Jewish immigration—it actively encouraged it. Denmark, on its part, would have no ideological motivation to behave in a similar way. On the other hand, it has powerful demographic and economic reasons, as do other European countries with an aging population and low birth rate, to encourage mass immigration—certainly in case of the entirely unproblematic and, in many respects, highly valuable mass immigration described here. Why wouldn't Denmark be not merely prepared but eager, if such a thing were conceivable, to take in five, or at least four or three million German immigrants?

In fact, the people of Denmark would probably be neither eager nor willing to do any such thing. Long before such numbers of immigrants would be reached, public opinion in Denmark would force the politicians to put an end to mass immigration from Germany. There is, admittedly, no "scientific" way to prove such a statement. I wonder, however, if many people would seriously doubt it—though some would be unsure whether, and how, such an attitude could be justified in liberal-democratic terms, while others would hold, positively, that it would lack justification. At that point, the Danish people would feel that their country would simply no longer be Denmark if German immigration on such a scale were allowed to continue. The "Danish people," in this context, is a category that would naturally include many originally "non-ethnic" Danes, of whatever origin, now sufficiently integrated, and, a fortiori, their descendants. These people would indeed, at this point, perceive themselves as an ethno-cultural—in the broad sense, not confined to ethnic descent—"majority," challenged by massive immigration.

The situation envisaged here would be a rather extreme case of what Liav Orgad has termed a "diminishing majority"—one that has "reached a point where a fundamental feature of their society faces a significant challenge due, among other things, to migration." This challenge is a function of the scale of migration and the political capacity to absorb more

migrants without a reasonable likelihood that their admission would radically affect the "core" of their culture."[13] In fact, because the scenario analyzed here is so extreme, the majority in question should perhaps be defined as "disappearing" rather than merely "diminishing." This majority would presumably feel that Denmark itself, rather than merely some "fundamental feature of their society," was being threatened. Hence, the sort of "cultural defense" that would result in such a situation can be expected to be more resolute than the carefully circumscribed one that Orgad envisages and regards as acceptable from the liberal point of view, in the case of certain types of challenged majorities, including "diminishing" ones.[14] It would be definitely aimed at putting an end to the mass immigration in question.

Why would the Danes feel this way about mass German immigration beyond a certain point, and would this feeling be fundamentally legitimate in terms of liberal-democratic values? After all, Denmark, even if it took in millions, and even if "ethnic"—in the broad sense—Danes were to become a minority, would certainly still be Denmark in its civic and constitutional identity.[15] All naturalized immigrants would of course be Danes in this sense, and those waiting to become naturalized would be on their way to becoming Danes. Since immigrant communities are not usually regarded as national minorities, and are nowhere officially recognized as such,[16] there would not, under this scenario, be a significant German national minority in Denmark—beyond the miniscule German community, "native" rather than immigrant, residing now on the Danish side of the border with Germany.[17] Consequently, one would not be able to speak of a Danish "national majority," or of Danes as a majority people in the country. In the civic and constitutional sense, virtually the entire

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[13] ORGAD, *supra* note 1, 189. *Cf.* AZAR GAT WITH ALEXANDER YAKOBSON, NATIONS: THE LONG HISTORY AND DEEP ROOTS OF POLITICAL ETHNICITY AND NATIONALISM 351–52 (2013): "no democratic electorate is likely to accept things [in the field of immigration] that it regards as fundamentally altering the national and cultural character of the state," though "accumulated changes over a long period of time may sometimes produce a result that is much more far-reaching than anything that could have been anticipated, or would have been accepted, from the outset."

[14] ORGAD, *supra* note 1, at 204–29.

[15] There seems to be no reason to assume that any number of naturalized German immigrants would lead to material changes in the Danish system of government; see more on this below.

[16] *See* WILL KYMLICKA, MULTICULTURAL CITIZENSHIP: A LIBERAL THEORY OF MINORITY RIGHTS 94–99, 114-115 (Oxford 2000), (insisting on a clear-cut distinction between native peoples and homeland national minorities that are entitled to collective cultural rights, and immigrant communities that are not). In practice, such a distinction is sometimes difficult to maintain. "Cultural group rights—demands for linguistic rights, Sharia law, or exemptions from general laws relating to the school curriculum and food—are invoked nowadays by immigrant groups, mainly in Europe, even if their demands are more confined than those asserted by national minorities." ORGAD, *supra* note 1, at 177. Most of these examples relate to Muslim immigrants and would not be relevant under the scenario presented here. In any case, no cultural right that might be gained by the German—or any other—immigrant community in Denmark would change the national character of the state from the viewpoint of civic nationalism.

[17] *See* Karen Margrethe Pedersen, A National Minority with a Transethnic Identity: German Minority in Denmark, in GERMAN MINORITIES IN EUROPE: ETHNIC IDENTITY AND CULTURAL BELONGING 15–28 (Stefan Wolff ed., 2000).

citizen body of the state would still be Danish. What, then, one may ask, would be the problem? Moreover, there is a powerful case for arguing that the country's economy, even if it had to suffer temporary difficulties, would eventually become much more prosperous, benefiting all, immigrant and "native" alike. And, as noted, there would be no question of white prejudice, Islamophobia, or security concerns, justified or not, in such a situation. Many liberals, and perhaps especially German liberals, may perhaps tend to feel some sympathy for a small nation anxious to avoid rampant Germanization. But it should be stressed that the Danes, or the Dutch, can be fully expected to react in a similar way to British, or French, or American immigration on a similar scale; in the latter case, imagining a few million people, out of a population of more than 300 million, wishing to settle in another country, is perhaps, in principle, slightly less unrealistic.

I would submit that such a reaction would not at this point, in and of itself, be illiberal, xenophobic or dictated by a hostility to the particular group in question, the Germans—though one should not doubt that once aroused, such feelings would often find expression in very problematic, and often downright xenophobic, ways. There is a point—not easily predictable beforehand, and perhaps very distant, but definitely existing in principle, and depending both on the numbers involved and on the pace of immigration—at which it would be reasonable for liberal Danes to feel that Denmark was being "Germanized," rather than German immigration being successfully integrated. This, I would argue, would not mean that Danish liberals are betraying liberalism by endowing their "Danishness" with some essentialist, inflexible and narrowly ethnic meaning. It would be fundamentally understandable and legitimate in liberal terms, if "liberal" means respecting the freedom and dignity of all human beings, and, as part of it, their need for cultural self-expression.

At some point of this process, there would indeed emerge, in Denmark, a Danish majority *vis-a-vis* a large German ethnic minority—perhaps, indeed, and contrary to the accepted usage, a large German national minority. There would indeed be two clearly distinct long-term groups facing each other. On a purely practical level, a classroom in which half of the students are of German-immigrant background can be expected to produce future German-origin Danish citizens of a very different kind—linguistically, and in a more general sense of culture, attitude and identity—than a classroom with only a couple of such pupils. There would be less need, and, naturally, less willingness, on the part of ethnic Germans, to integrate culturally—above all, in the sense of adopting Danish as their main language; indeed, those wishing to integrate would find it much more difficult to do so. And the willingness of the host society to integrate, without insisting on full assimilation, would have been diminished. The relatively greater rigidity of both identities—without assuming that they would become fully impregnable—would be re-enforcing each other.

D.   Language and Culture

The most obvious answer to the question—in what sense, precisely, would the Danish identity of the country be fundamentally altered, in the eyes of the majority—is that Denmark would cease to be an (overwhelmingly) Danish-speaking country. As has been argued above, Denmark can take in and integrate large numbers of German immigrants without producing this result—despite some degree of linguistic pluralism that would inevitably emerge. Beyond a certain point, however, this would no longer be the case. Language is widely considered as the most salient cultural element of a modern national identity (in most cases) —however "civic," as opposed to "ethnic," this identity may be, according to the usual definitions.[18] In France, whose national identity is described as civic *par excellence*, language is regarded as central to national identity—certainly no less so than in any other European democracy. It thus seems unproblematic to say that it matters a lot, to Danes, whether or not their country will continue to be overwhelmingly Danish speaking. This easily qualifies as a "fundamental feature of their society."

Would changing this "fundamental feature" of Danish society amount also to changing the country's constitutional identity? Denmark happens to be one of those countries whose constitution does not mention the country's official language. But a country's constitutional order may be understood in a wider sense, covering features of the nation's life that are regarded as fundamental even if they are not included in the text of the constitution.[19] In this wider sense, the Danish language can be regarded as part of the country's present constitutional identity. As for the country's constitutional order in the narrower sense, there would probably, under the scenario presented here, be no grounds for assuming that it might be fundamentally altered. One could argue that the long-term effects of massive German immigration might perhaps be expected to lead, eventually, to a change in the specifically-Danish features of the country's constitution—the monarchy and the official establishment of the Lutheran Church. But even a constitutional change on those matters, carried out in a democratic and constitutional way, would hardly amount to subverting Denmark's fundamental constitutional identity as a liberal parliamentary democracy. The

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[18] For a classic exposition of the traditional dichotomy between ethnic and civic nationalism, see HANS KOHN, THE IDEA OF NATIONALISM (1944); *see also* ERIC HOBSBAWM, NATIONS AND NATIONALISM SINCE 1780 (1990). This dichotomy has been subjected to repeated criticisms that question both the assumption that civic nationalism is inherently more liberal and inclusive, and the very notion of a national identity that is purely civic, or culturally neutral. *See, e.g.*, Will Kymlicka, *Modernity and National Identity*, *in* ETHNIC CHALLENGES TO A MODERN NATION STATE 11–41 (Shlomo Ben-Ami, Yoav Peled, & Alberto Spektorowski eds., 2000); Tim Reeskens & Marc Hooghe, *Beyond the Civic–Ethnic Dichotomy: Investigating the Structure of Citizenship Concepts Across 33 Countries*, 16/4 NATIONS & NATIONALISM 579–97 (2010). However, the distinction is certainly meaningful in the basic sense that a national identity can be perceived as either comprising the whole citizen body of the state or shared by only a part of it; in the latter case, the two or more national identities within a single state are naturally "ethnic," "cultural," or "ethno-cultural". Neither model is a guarantee against aggressive nationalism. *Cf*. GAT & YAKOBSON, *supra* note 13, at 328-379.

[19] *See* Monkia Polzin chapter in this this volume, 18 GERMAN L.J.; *see also* Pietro Faraguna chapter in this volume, 18 GERMAN L.J.

Danish language, even though unmentioned in the constitution, and not touching on the system of government and the civil rights, is probably far more fundamental to most Danes' notion of Denmark as a society and as a state.

But the truth is that language, for all its importance, is not the whole story. The German-speaking cantons of Switzerland can be expected to react similarly to the prospect of several million German immigrants. The same would apply to the French-speaking cantons, or to Wallonia, in the face of French immigration on a similar scale, or to the Irish Republic—where English is spoken by a large majority—and even Scotland—both English-speaking, and part of the same state, with no legal way to oppose "internal" immigration—should millions of English people wish to settle there.[20] German-speaking Austrians can probably be expected to react in a similar way to German immigration on this scale; the same applies to the people of Luxembourg, who number less than half a million, and could more easily be imagined as becoming a minority, or almost a minority, in their own country.

Going outside Europe, the English-speaking people of New Zealand would probably refuse to take in a similar number of immigrants from the neighboring, friendly and English-speaking Australia. This holds true although both countries share, apart from many other important things, including the British origin of their core populations and a closely similar political and legal tradition, the same head of state, symbolizing their closeness and common heritage: Queen Elizabeth the II. The two countries are, at any rate to an outsiders' eye, as close to each other as two different countries could be. Nevertheless, the New Zealanders would presumably be unwilling to take in several million Australians—though their relatively large country is sparsely populated, and in the end could probably be expected to benefit economically from this. The same attitude would probably be displayed by Spanish-speaking countries of Latin America in a similar situation. And how would English-speaking Canada react to American immigration on a proportionally similar scale? Probably no better than the French-speaking part of the country in Quebec. Assuming, for instance, that such a wave of immigrants would consist of American liberals fleeing the presidency of Donald Trump, their coming to Canada would in no way threaten Canadian liberal values, quite to the contrary.[21] Nevertheless, Canadian liberals would probably be unwilling to see their country Americanized on such a scale, even though it would be simultaneously liberalized, and even though in the formal civic sense, no number of Americans acquiring Canadian citizenship could ever make it any less Canadian.

In all these cases, immigration on such a scale would be perceived as fundamentally transforming the cultural character of the country, even without a change of language—and without any danger to the liberal constitutional order. The cultural differences involved, in

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[20] In the case of Scotland, such a prospect would very probably be relevant to debates on secession and independence.

[21] I am grateful to Liav Orgad for raising this scenario and making this point in a private conversation.

these cases, may often seem trivial from outside. How culturally different are Australia and New Zealand? To an outsider, not very much—but the "last word" on such matters does not, and should not, belong to outsiders. What is so specifically Irish about Irish culture? Are Irish songs really so different from English ones, sung in the same language (though in a somewhat different accent)? But surely, if there is a liberal right to culture,[22] it includes the right to attach importance to things that may seem trivial to outsiders. Only a very narrow-minded Irish nationalist indeed might wish to ban English songs from Ireland; but even a good Irish liberal would, presumably, balk at the idea of 5 million English immigrants, even if it could be expected that this would in fact be most beneficial to the Irish economy.

Asking an Irish person to explain and justify his or her feeling that Ireland would no longer be Ireland if 5 million English people were to settle there, is probably not a good idea—a disservice to the cause of peace and understanding between peoples; the same applies to Danes in our thought experiment. The answer, apart from a probable reference to the national language—a sensitive issue in Ireland precisely because English, rather than Irish, is in fact dominant in the nation's life—is likely to evoke bitter memories of the past. But no similar memories come between Australians and New-Zealenders—which would not, I suggest, make the people of that country any more willing to take in 5 million immigrants from Australia. Trying to make them explain in what sense, exactly, New Zealand would no longer be New Zealand under this scenario, may push some of them in the highly undesirable direction of feeling that they are called on to explain what is wrong with Aussies, and why too many of them, beyond a certain point, would harm New Zealand. This might result from an intuition that an unwillingness to take in these millions of Australians is problematic from the liberal point of view, and requires some strong "practical" justification, since the cultural differences between the two peoples might not seem sufficiently dramatic to an outsider. There is thus a good reason to insist that these matters are better left to members of each cultural group, rather than being subjected to any detailed examination from outside.

E.   Peoplehood and the right of self-determination

Assuming that the Danes would not be willing to receive 5 million German immigrants is, I would suggest, a matter of common sense; accepting that this unwillingness would be legitimate from the liberal-democratic point of view is a matter of commonsensical and undogmatic liberalism. If some specific liberal principle needs to be invoked in explaining this, I would suggest that it is the right of peoples to self-determination. This is a fundamental principle of international law, listed as such in the United Nations Charter—Article 1.2 "the principle of equal rights and self-determination of peoples"—but much is unclear and debated about its practical meaning. The most controversial issue is the right of secession, when self-determination can clash with another basic principle of international law—territorial integrity of modern states. To a lesser extent, this principle is sometimes

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[22] *Cf*. Avishai Margalit & Moshe Halbertal, *Liberalism and the Right to Culture*, 71/3 Soc. Research, 529–548 (2004).

invoked in arguments about collective rights of minorities, and about regional self-government. Self-determination is the first right mentioned in The International Covenant on Civil and Political Rights: "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development." Article 1.1.

The Covenant deals with individual rights, but its framers rightly assumed that for many individuals, their personal freedom is not fully realized when they feel that their "people" are not free collectively.[23] This is what makes the principle of self-determination part of the basic kit of a modern liberal democracy—despite all the difficulties and uncertainties surrounding it, including arguments about the very definition of "a people," and on whether a certain group, claiming rights under this principle, is indeed "a people" in this sense. The people of Denmark are indisputably "a people" for the purpose of the right of self-determination. As noted above, a self-conscious Danish ethno-cultural majority facing a large and growing German minority, would presumably emerge, at some point, under the scenario raised here. But there is no need to decide whether such a majority can invoke the right of self-determination by virtue of this kind of peoplehood.[24] The decision on immigration would in such a case, as always in a democracy, be made by the elected representatives of the entire civic community, and would thus embody the self-determination of the people of Denmark in the civic sense.[25] The majority of the people of Denmark—including people of non-Danish heritage—would presumably have come, at that point, to the conclusion that their culture is at stake.

It would, I suggest, be quite meaningless to pretend that the people of Denmark enjoy the right to determine their future, shape their destiny, and, as the International Covenant on Civil and Political Rights puts it, "freely pursue their economic, social and cultural development," if one holds that this does not include a right to be unwilling to take in 5 million German immigrants. On the other hand, Denmark could, no doubt, take in fifty thousand German immigrants over a short period of time, and easily integrate them. Any claim that fifty thousand German immigrants would make Denmark less Danish would be

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[23] *Cf*. ORGAD, *supra* note 1, at 171 on the Covenant turning the right of self-determination from a "declaratory" general principle mentioned in the UN Charter into a "legal principle" and a "human right."

[24] Deciding between the different notions of peoplehood for the purpose of the right to self-determination might, conceivably, become necessary under a scenario even more unrealistic than the one raised here: if the ethno-cultural Danes were to become a minority and then wish to secede from the state. The incontestable civic self-determination would presumably have been exercised in the way suggested here long before things reached that point.

[25] *Cf*. ORGAD, *supra* note 1, at 182. Orgad speaks, dealing with more realistic and less extreme scenarios, of "justifications for cultural majority rights [and] cultural defense of the majority irrespective of whether it can invoke self-determination; these justifications are based on similar rationales to those invoked for cultural minority rights—personal autonomy and the right to identity."

easily dismissed by liberal people as an expression of narrow-minded nationalism, probably also reflecting hostility towards the particular group in question.

The figure of fifty thousand could easily be turned into a hundred thousand and the conclusion would still be the same. Where exactly—or even approximately—the borderline between this category, and the category represented by the figure of 5 million, passes, I do not venture to suggest. One may doubt whether such a borderline can be drawn in any general manner, divorced from specific circumstances and considerations which would, no doubt, be debated in each particular case. My point here is that the very existence of those two poles, indicated respectively by the figures of fifty thousand and 5 million German immigrants to Denmark in this discussion, should not be doubted—certainly as regards what can be expected to happen in any country, including a liberal Western democracy, but also, I would argue, normatively. This is not a wholly trivial statement, considering that debates on immigration are sometimes conducted in a way that implies that numbers—as such, apart from the other usual relevant considerations—do not matter, or at any rate should not matter.

The ability of a "strong and uncontested" liberal Western state to absorb large-scale immigration is one of the hallmarks of our contemporary world. But numbers do matter, beyond a certain point. The extreme and unrealistic example of "mega"-mass immigration, and its likely consequences, discussed here, does not provide anything like a precise answer to any of the real-life controversies as to the scope and conditions for immigration and naturalization, or the desirable cultural policies in countries of immigration. Moreover, it should be fully acknowledged that there is a certain risk involved in saying, explicitly, what is implied by the results of our thought experiment. There is, as always when arguments about degree are presented, a potential slippery slope here. If it is accepted that there would be nothing illiberal and narrowly nationalistic about Denmark's presumed unwillingness to take in 5 million German immigrants, who is to say that fifty thousand immigrants would be a qualitatively different matter? If we acknowledge that most Danes would feel that their country would no longer be Denmark under the scenario presented here, how can we prevent arguments about one's country staying "itself" from being used by those who believe that only an ethnically "pure" country is truly "itself?" We cannot. These arguments will be so used, and will have to be confronted. But if there is a risk involved in accepting that Denmark might legitimately be unwilling to take in 5 million Germans, there is, in my view, an even greater danger, from the viewpoint of liberal democracy, in denying this, or in creating the impression that a liberal worldview necessitates denying it. The benefits that truly illiberal forces would derive from such an impression, in any democratic society, would be very considerable.