

H-France Review Vol. 4 (March 2004), No. 32

Patrick Weil, *Qu'est-ce qu'un français? Histoire de la Nationalité française depuis la Révolution*. Paris: Editions Grasset et Fasquelle, 2002. 401 pp. Notes, maps, documents, tables, bibliography, indexes (names and subjects) and glossary. 21.50 € (pb). ISBN 2-246-60571-7.

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To non-French readers, it may seem scarcely believable that in 1987 the debates of a commission on such a potentially dry topic as the legal acquisition of nationality should provide the drama for a series of live television broadcasts. Yet in France the reform of the Code de la nationalité discussed by the commission (presided over by the vice-president of the Conseil d'Etat, Marceau Long), introduced the complexities of the issue to a wide public audience. Moreover, when the final report, *Etre Français aujourd'hui et demain* was published in 1988, it sparked controversy.

The Long report proposed that young persons born in France of foreign parents would have to declare their intention to assume French nationality at any time between the age of sixteen and twenty-one years old, provided that they had lived continuously in France for five years. The commission's intention was not to put insurmountable obstacles to the acquisition of French nationality—and its suggestions in fact offered a flexible alternative to more stringent proposals that Jacques Chirac, then prime minister, had shelved early in 1987 for fear of provoking too much opposition. For this reason, the liberal press, such as *Le Monde* and *Libération*, hailed the Long report, while the extreme right, represented above all by Jean Marie Le Pen, fumed.

Yet the most interesting reaction came from the left, and particularly the organisation concerned with the rights of immigrants, SOS-Racisme, which argued that the children of immigrants were, by the very fact of being born on French soil, automatically French nationals. SOS-Racisme therefore rested its argument on a radical interpretation of the *droit de sol* (or *jus soli*): the idea that one's legal nationality depends solely on one's birth on the territory of a state. Patrick Weil's monumental study examines the legal and political traditions which lie behind the French interpretations of the *jus soli* and its opposite, *jus sanguinis*, which would restrict the acquisition of nationality by inheritance or ties of "blood." His purpose is to explore what is it to be French: namely, how does one legally prove oneself to be French and thus acquire French nationality?

Weil's book falls into three parts. The first part describes the three great steps by which modern French nationality law developed. For Weil, the first stage was that section of the Civil Code which dealt with civil rights and which was passed on 18 March 1803. Nationality was transmissible by filiation, with the nation being regarded as a family, and the pure *droit de sol* was rejected. The second step was the reassertion of *jus soli* under the Third Republic in 1889, which was reinforced by the demands of reconstruction after the First World War. The danger of depopulation was offset by immigration but, until 1927—the third great step—few foreigners were actually naturalised. Requests for French nationality hovered between 15,000 and 20,000 in 1921-26, but there were almost two and a half million foreigners living in France by the latter date.

The law of 1927, therefore, radically reformed both the process by which requests for naturalisation were dealt with and cut the residence requirement for immigrants from ten years to three. The social tensions caused by the arrival and naturalisation of large numbers of immigrants, combined with the popularity of "scientific" explanations for ethnic differences nonetheless ensured that the liberalisation of the nationality law would also be accompanied by a rise in racial notions of French nationality. These

ideas would have their dark days under the Vichy regime and the Nazi occupation. This topic forms almost half of the discussion of the second part of the book, which deals with the 'ethnic crises' of French nationality. The analysis also includes a stimulating discussion of the post-war efforts to re-establish what was now considered to be "republican" legislation as opposed to Vichy's racist nationality laws.

Yet this was achieved with some difficulty, for some of the very "experts" on immigration whose ideas were exploited by Vichy were also employed by the government after the Liberation. Most notable was the geographer Georges Mauco, who in the 1930s had been part of a trend which aimed "scientifically" to distinguish the potential for assimilation among immigrants according to their ethnic or national origins. Under Vichy, he hailed the opportunity for a "fascist revolution" and roundly condemned the immigration policies of the Third Republic whose "egalitarian political tendencies" prevented governments from assuring "the ethnic protection of the country."

In 1944, however, this slippery character joined the Resistance and then found himself chairing the High Committee on population and family, where—inspired by similar policies in the United States—he proposed quotas for the naturalisation of immigrants, among which the "Nordic" peoples would take precedence (at 50%) over the people of the Mediterranean (30%) and Slavs (20%). People from other groups would only be admitted on a case-by-case basis. Mauco, however, was defeated by opposition from various ministries within the provisional government and acquisition of nationality became a matter of law rather than government policy when the justice minister finally produced the Code de la nationalité of the Fourth Republic (pp. 86-87, 142-150). The rest of this section deals with the question of North African immigration since Algerian independence, the re-emergence of the extreme nationalist right and the debate over nationality up to the law of 1998.

The third part of the book is comparative, examining the way in which nationality laws operate in Germany; how in France women have suffered discrimination in the laws on nationality (and comparisons are here drawn with the United States); how the indigenous Muslim population in Algeria did not benefit from naturalisation (although Algerian Jews did in 1870); and how the modern laws on nationality have worked in practice in France. Weil makes the point that each of the three main steps which he identifies—1803, 1889, 1927—was accompanied by restrictions to the rights of important groups of people. In 1803 it was women, whose nationality was determined by that of their husbands, so that a French woman marrying a foreigner would lose her French nationality. In the mid 1920s, some 150,000 women became legally foreign and so subject to the laws governing foreigners. While the law of 1927 ended this form of discrimination, it was not until 1973 that women shared the same rights as men in terms of the laws on nationality (p. 212).

In 1889, it was the Muslim population of Algeria who were discriminated against. Efforts by certain "arabophiles" to naturalise progressively the indigenous population of the French colony were dashed against the solid reef of deputies from Algeria who were elected by French colonists. They were hostile to the implications, which would have included enfranchising "ignorant, fanatical, and hostile masses, among which the French people would be swamped," as the administration of Algeria put it in 1887 (p. 230). By the time Algeria received independence in 1962, there were only 10,000 Muslims who enjoyed the full rights of French citizens. In 1927, the law which made the terms of naturalisation more liberal also put restrictions on the rights of newly-naturalised citizens, including eligibility for elected office (a clause finally suppressed in 1983) and certain professional positions, such as the bar and the right to act as a delegate for employees (a source of discrimination formally rescinded in 1978).

Set in the context of the fiery and current public debate over French nationality—an argument which has barely let up since the report of the Long commission—some of Weil's findings are certain to be controversial. Firstly, it is interesting that, at least in the debates in the Tribunal over the Napoleonic Code, the *droit de sol* was regarded as a "feudal" notion, based on the concept that all people born on the territory of the king were automatically his subjects. It was, of all people, Napoleon Bonaparte himself

who supported the *droit de sol*—albeit for the practical purposes of conscription—but he was outmanoeuvred by a combination of jurists and veteran revolutionaries who rejected the notion that all people born in France were to be considered French (pp. 33-35).

The implication is that, far from being a cast iron republican principle, the *droit de sol* was ultimately rejected by the revolutionaries, while being readopted—Weil tellingly uses the word “reinvented” (p. 60)—by the Third Republic in 1889 for pragmatic, rather than ideological, reasons. France was then becoming the largest recipient of immigrants in Europe and, for as long as the *jus sanguinis* operated, the children of these immigrants would remain unassimilated. Seen in this light, the proposals by the Long commission in 1987 and the subsequent reforms of the nationality law in 1993 and 1998 cannot be regarded as a betrayal of the sacrosanct principle of the *droit de sol*.

This implication, however, should not obscure the fact that the myth of a republican principle of openness and assimilation could prove to be a galvanising factor in itself. If after 1934 the Third Republic closed its doors to immigration, it still received refugees, particularly from Nazi Germany and Austria, despite some misgivings. The right of asylum became, as Greg Burgess has argued in an interesting thesis, “a symbolic site of memory as it evoked a tradition in which an ideal of history was invested.” Asylum—like nationality—may have been constantly redefined in response to changing circumstances, but its function as a “site of memory” allowed reformers to argue that the principle and practice of asylum was founded on an historic, even “sacred” right.^[1] As Edouard Herriot argued, the welcoming of refugees was “one of the essential elements of republican doctrine” (p. 88).

Arguably, then, one could make a strong case to suggest that the Revolution was an important step in the definition of French nationality. Juridically, it may well have been the Napoleonic Code which took the first step in the development of French nationality law, but, *culturally*, the Revolution has provided proponents for the easier assimilation of foreigners within a democratic, secular state with a set of inspiring founding deeds. Even this may be, as Sophie Wahnich’s work on the discourse on foreigners has suggested, a myth, but this reviewer’s own work on foreigners in the revolutionary period has suggested that the cosmopolitan ideals of the French Revolution remained, in practice, surprisingly resilient in some cases.^[2] One can certainly make a case that assimilation and openness as a defining characteristic of French nationality can be dated further back, to the *ancien régime*, which falls beyond the limits of Weil’s book. The eighteenth century, for example, witnessed a gathering tension between the realities of French involvement in colonial slavery and developing notions of freedom and citizenship.^[3]

Weil’s book is an important scholarly contribution. Despite the topical urgency of the question, there has been no systematic history of the juridical evolution of French nationality since the French Revolution. There have, of course, been specialised works on this subject, notably Peter Sahlins and Charlotte Wells for the *ancien régime* and Rogers Brubaker for the nineteenth century.^[4] Among all these, however, Weil’s book is the first to attempt a *longue durée* history of the concept of French nationality from 1789 until the present day. Weil is at his best when he weaves political with economic, social, and cultural developments and when he illustrates—often with the use of archival material—the way in which the various laws on nationality were applied in practice. These two approaches make a refreshing break from work which, while useful in itself, has tended to look at the evolution of French laws on nationality in terms purely of jurisprudence ^[5].

Weil’s work, heavily documented and impressive in scope as it is, will not be the last word on the subject. While it should be clear from the foregoing that the author does discuss the cultural and social context, Weil’s primary purpose, it should be stressed, is to examine the development of the *juridical* concept of French nationality. This involves discussing how conflicting ideas of French nationality were translated into law and then applied in practice, which is in itself fascinating and a significant contribution to the existing scholarship. Yet it also means that much of the focus is on the debates

among circles of Parisian intelligentsia, politicians, and government, rather than on how a broader sense of “Frenchness” developed within civil society.

At the outset, Weil argues that nationality laws were not a reflection of national identity, which developed independently of the laws on citizenship and nationality (p. 13). One would have to agree with this: Weil shows convincingly throughout that successive French laws on nationality developed in response to economic necessity and political impulses, not as expressions of national identity. Weil’s purpose is not, therefore, to discuss this rather more nebulous phenomenon, so his book cannot be judged on this basis. Yet national identity would have to be part of a much larger study fully answering the question “Qu’est-ce qu’un français?” National identity is the product of cultural and historical processes in civil society and of the conscious action of the state through education, linguistic policy, conscription, and the development of such integrating forces as roads, railways, common currency, and standard weights and measures (which were among the factors discussed by Eugen Weber in his now classic analysis of the integration of peasants into the French state).^[6]

An Algerian immigrant’s or a French person’s conception of what it is to be French is unlikely to be translated into laws on nationality, as Weil suggests, yet collectively their views, when added to the juridical notion of nationality, would provide a more complete answer to the question as to what it is to be French. Moreover, the extent to which French citizens of North African origin are integrated into the French state is not just a matter of the legal conditions by which French nationality is acquired, but is also dependent upon how far they have adopted a wider sense of French identity. The republican ideal of assimilation demands that all citizens accept its core, secular values, relegating their different religious or cultural identities to their private lives.

Yet how far this operates successfully depends as much on the social integration and cultural relations of immigrants and their children—amongst themselves and within French society in general—as it does on legislation determining access to citizenship. This point has been thrown into sharp relief by recent political debates which also suggest that approaches rooted in both cultural and social history might be fruitful. The current argument about nationality in France is given urgency not only by the alarming persistence of the extreme right at the polls, but also by more well-meaning politicians and commentators, concerned about how to integrate Europe’s largest Muslim population within the secular Republic. The passions which flared up during the *affaire du foulard* in 1989, when Muslim girls were expelled from school for persistently wearing their *hijab* headscarves, have been reignited by the recent law banning conspicuous signs of religious affiliation from the classroom. While in keeping with the republican tradition, which insists on a strictly secular state that would be impartial to all who agree to be French first and then Christian, Jewish, or Muslim second, some French Muslims have felt specifically targeted.

The cultural clash in which some Muslims fear that the state is targeting Islam itself means that the republican vision of assimilation of all immigrants within a secular democracy appears a long way off. Weil’s final conclusion (which he makes with specific reference to Algerian immigrants and their children) that the story of French nationality since the Revolution can be seen as a history of “a progressive opening up to foreigners, the achievement of equality and finally successive victories against discrimination” certainly makes sense in purely legal terms (p. 275). Yet it remains to be seen whether it does when set against the problems of poverty and social exclusion faced by the children of immigrants. It also needs to be considered alongside conflicting cultural attitudes between the proponents of secularity and of the individual rights of Muslims to self-expression. Weil has produced an outstanding scholarly work which exhaustively answers the question “What is a French person?” in political-legal terms. To complete the picture will now require further studies which take account of the social and cultural relations of foreigners and immigrant communities within French society.

NOTES

[1] Greg Burgess, "Asylum and Refugee Protection in France, 1831-1938" (University of Melbourne Ph.D., 2002), p. 345.

[2] Sophie Wahnich, *L'impossible citoyen: l'étranger dans le discours de la Révolution française* (Paris: Albin Michel, 1997); Michael Rapport, *Nationality and Citizenship in Revolutionary France: the treatment of foreigners 1789-1799* (Oxford: Clarendon Press, 2000).

[3] See Sue Peabody, *"There are no Slaves in France": The Political Culture of Race and Slavery in the Ancien Régime* (New York and Oxford: Oxford University Press, 1996).

[4] See, most recently, Peter Sahlin, *Unnaturally French: Foreign Citizens in the Old Regime and After* (Ithaca: Cornell University Press, 2004); J.-F. Dubost and Peter Sahlin, *Et si on faisait payer les étrangers? Louis XIV, les immigrés et quelques autres* (Paris: Flammarion, 1999); Charlotte Wells, *Law and Citizenship in Early Modern France* (Baltimore: John Hopkins University Press, 1995); Rogers Brubaker, *Citizenship and Nationhood in France and Germany* (Cambridge, Mass.: Harvard University Press, 1992). For a discussion of continuities from the ancien régime, through the revolutionary period and into the post-Napoleonic era, see also Michael Rapport, "A Languishing Branch of the Old Tree of Feudalism: The Death, Resurrection and Final Burial of the Droit d'Aubaine in France," *French History* vol. 14, no. 1 (March, 2000), pp. 13-40.

[5] For interesting examples of this approach, see *La Condition juridique de l'étranger hier et aujourd'hui: actes du colloque organisé à Nimègue les 9-11 mai 1988 par les Facultés de Droit de Poitiers et de Nimègue* (Faculteit der Rechtsgeleerheid Katholieke Universiteit Nijmegen, 1988).

[6] Eugen Weber, *Peasants into Frenchmen: the Modernization of Rural France, 1870-1914* (Stanford, Calif.: Stanford University Press, 1976).

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H-France Review Vol. 4 (March 2004), No. 32

ISSN 1553-9172