

## How liberal tests are does not merely depend on their content, but also their effects

Kees Groenendijk and Ricky van Oers\*

In his contribution Christian Joppke correctly disqualifies citizenship tests scrutinising future citizens' inner dispositions as being unjustifiable from a liberal point of view.<sup>10</sup> Citizenship tests that assess cognitive knowledge can, in his view, be qualified as liberal. This qualification of knowledge tests as liberal and tests judging the applicant's 'inner dispositions' as illiberal, however, requires some refining. Ines Michalowski already notes in her contribution that an evaluation of citizenship tests should not only ask what these tests require from the candidate, but that it is also important to analyse to what extent states use citizenship tests as an instrument to 'regulate possible dissent that emerges from a culturally and religiously diverse population.' As an example, she mentions that certain questions from the Dutch citizenship test regarding an applicant's cognitive knowledge of Dutch social norms and values should be qualified as illiberal. These questions suggest a supposed general acceptance of social norms among the Dutch population, whereas acceptance of these norms is not necessary for a liberal democracy.

To this refinement, we would like to add that the question regarding the justifiability of a citizenship test in a liberal democratic perspective can only be answered when the effects a citizenship test produces are taken into account. A citizenship test which puts up a barrier for lower-educated, less-well-off immigrants is hard to justify from a liberal point of view, how liberal its content may be. The devil, like Joppke states, is indeed in the detail, and these details hence deserve some elaboration. We will illustrate our position on the basis of the cases of the Netherlands and the UK.

In the Netherlands the possession of Dutch high school (or higher) diplomas leads to exemption from the requirement to pass a citizenship test for naturalisation. This implies that the citizenship test will primarily affect first generation of immigrants, who have generally not followed education in the Netherlands, and second generation school drop-outs, the number of which is exceptionally high in the Netherlands.<sup>11</sup> Next to the socio-economic problems the latter category will experience will now also be added legal problems: an extra barrier will be put up in the form of an expensive (at least €230) and complicated citizenship test that will stand in the way of full citizenship and permanent residence rights.

Empirical research conducted in the Netherlands (Van Oers 2006) has indeed shown that the citizenship test puts up a barrier for naturalisation. After the introduction of the test in April 2003 naturalisations decreased by 50%.<sup>12</sup> From 1 April 2003, the date the test was introduced, until 1 September 2006, a bit over half of all those who registered to take the test eventually passed it. In addition, many immigrants did not register to take the test in the first place, out of fear that they would

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\* Director, Centre of Migration Law, Radboud University of Nijmegen; PhD student, Centre for Migration Law, the Radboud University of Nijmegen. Contribution published online on 10 February 2010.

<sup>10</sup> To this observation we would like to add that not only citizenship tests are used as means to scrutinise an applicant's inner dispositions. Recently, an applicant who forced his wife to wear a full Islamic veil was refused French citizenship for a lacking desire of integration ('Besson refuse par décret de naturaliser un homme imposant le voile à sa femme', *Le Monde*, 2 February 2010). A comparable example can be found in the Netherlands, where the wife of an imam was refused naturalisation for her supposedly insufficient integration (Council of State, 6 August 2006).

<sup>11</sup> 'Het mbo is de blinde vlek', *De Groene Amsterdammer*, 21 January 2010.

<sup>12</sup> The numbers reached an all-time low in 2004 and 2005 (14,752 and 14,893 naturalisations respectively), when more than 50% fewer persons were naturalised compared to 2002 (29,299 naturalisations), the year before the revised Dutch Nationality Act, introducing the naturalisation test, entered into force. The total number of naturalisations in 2008 is still 44% lower than the level reached in 2002.

not pass the costly test, for which no studying material has been made available. It is difficult to prepare for a test in case the test subjects are kept secret. From interviews conducted with those charged with implementing the test and with immigrants themselves it became apparent that the test constitutes a particularly high barrier for weaker groups in society, such as the elderly, women in disadvantaged positions and persons who have not had any or only little education. For this category, the test has hence not led to an improved integration, which was one of the official aims of the test, but rather the opposite: immigrants in this category gave up their wish for full membership. The test thus creates extra barriers for lower-educated immigrants who lack the financial means to obtain the level required by the test. This is difficult to justify in respect of the principle of equal treatment of all citizens in a liberal democracy.

In comparison to the low pass rate for the Dutch naturalisation test, the average pass rate of the British 'Life in the UK' test is high: 73% of all tests taken have been successful.<sup>13</sup> Still, a significant proportion of potential applicants for naturalisation and permanent residence (more than 25%) is being held back by actual test failures (Ryan 2008: 313).<sup>14</sup> Furthermore, when taking a closer look at the pass rates for the test per nationality, it becomes apparent that the test constitutes an especially high barrier for certain categories of immigrant: family migrants and refugees. Whereas the pass rate is almost 100% for applicants holding the nationality of a country where English is the majority language (USA, Australia), less than half of all tests taken by immigrants holding the nationality of a country which has produced large numbers of refugees (Iraq, Kosovo and Afghanistan) or applicants for family reunification (Bangladesh, Turkey) are successful. The impact of the introduction of one uniform test is highly differentiated per nationality and is probably differentiated by immigration category (Ryan 2008: 303). It is therefore in our view questionable whether the British test, which has a 'good' reputation when it comes to its content (Michalowski 2009) can be justified when measured against liberal standards.

An overall evaluation of citizenship tests should not only be based on the content of these tests (Joppke) and the extent to which states use the tests to define cultural and religious difference as a public issue that may require state interference (Michalowski), but also on the effects these tests produce in terms of excluding a significant part of the permanent resident population from full citizenship rights. Important differences in terms of access to full citizenship are not easy to justify from a liberal democratic perspective.

## Bibliography

- Michalowski, Ines (2009), 'Citizenship Tests in Five Countries - An Expression of Political Liberalism?', *WZB Discussion Paper*, no. SP IV 2009-702.
- Ryan, Bernard (2008), 'Integration Requirements: A New Model in Migration Law', *Journal of Immigration, Asylum, and Nationality Law*, 22(4): 303-316.
- van Oers, Ricky (2006), *De Naturalisatietoets Geslaagd? Een Onderzoek naar de Totstandkoming en Effecten van de Naturalisatietoets*. Nijmegen: Wolf Legal Publishers.

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<sup>13</sup> The Advisory Board on Naturalisation & Integration (2008), *Final report*, p. 31.

<sup>14</sup> The passing of the 'Life in the UK' test has since 1 April 2007 also been a requirement for indefinite leave.