

Inclusion and Exclusion

Solidarity in the Welfare State: The Question of Being In or Out

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I. Introduction

Political and legal debates about solidarity perpetuate an image of the welfare state that does not seem to reflect reality as we experience it. While we listen to rambling speeches about social solidarity, we learn about riots in the streets of Paris, about teenagers being shot down in the streets of London and about excessive violence in German underground trains. These events illustrate that, albeit a functioning welfare state, societal cohesion is in decline and a considerable part of the society is excluded from the mainstream of opportunities. The European Commission states that “[a] sizable part of the Union’s population remains socially excluded, since 16% of Europe’s population is at risk of financial poverty, one in five lives in sub-standard housing, 10% live in households where nobody works, long-time unemployment approaches 4% and the proportion of early school leavers is over 15%.”¹ The government of Brussels reports that ten percent of the citizens of Europe’s capital are illiterate, and that the gap between rich and poor is growing.² These phenomena refer to a problem described by sociologist as *social exclusion*.

Social exclusion is a concept that does not seem to lend itself to precise definition. Definitions of social exclusion vary by national context and sociological paradigm. Some approaches emphasise the exclusion from opportunities while others conceive of exclusion as social distance, marginalization and inadequate integration. Common to all definitions, however, is the underlying assumption that social exclusion expresses a rupturing of the social bond and a process of declining solidarity.³ At the societal level, exclusion reflects inadequate social cohesion or integration. At the individual level,

¹ Council Communication “Modernising social protection for greater social justice and economic cohesion: taking forward the active inclusion of people furthest from the labour market” (COM (2007) 620 final).

² “Brusselse kloof arm-rijk dramatisch” [The gap between poor and rich rises dramatically], in: De Standaard, 29 March 2008, p. 1.

³ Hilary Silver, “Social Exclusion”, in: *Encyclopedia of Sociology*, Oxford: Blackwell 2006; Heinz Bude, “Das Phänomen der Exklusion: Der Widerstreit zwischen gesellschaftlicher Erfahrung und soziologischer Rekonstruktion” [The Phenomenon of Exclusion: The Conflict between Social Reality and Sociological Reconstruction], in: 36 (2004) 4 *Mittelweg*, p. 4; Gösta Esping-Andersen, *Why We need a New Welfare State*, Oxford University Press 2002; Anthony Giddens, *The Third Way. The Renewal of Social Democracy*, London: Polity Press 1998; Claus Offe, *Contradictions of the Welfare State*, edited by John Keane, London: The MIT Press 1984.

exclusion refers to the failure to participate in normatively expected social activities and to build social relations.

This paper will discuss the problem of social exclusion in the welfare state from the perspective of legal theory. Its aim is to show how welfare regulations which are meant to sustain social solidarity, in fact, produce social exclusion. The paper will first deal with the phenomenon of social exclusion and explain the ways in which this sociological concept is used in different contexts. Secondly, it will analyse the philosophical foundations of the welfare state and, thirdly, discuss different concepts of solidarity. In a final step, the problem of social exclusion in the welfare state will be examined by analysing the paradigmatic changes in the perception of solidarity in the welfare state.

II. Social Exclusion

The term *social exclusion* was originally used in the political realm to describe new social problems arising after post-war economic growth had begun to slow down in Europe. It was in France, where politicians, journalists and academics started to make vague reference to the poor as '*les exclus*' (the excluded) in the 1960's.⁴ The coining of the term *social exclusion* is attributed to René Lenoir. He was Secretary of State for Social Action in the French Government and estimated in 1974 that 'the excluded' made up 10% of the French population: the mentally and the physically handicapped, suicidal people, aged invalids, abused children, drug addicts, delinquents, single parents, multi-problem households, marginal, asocial persons, and other 'social misfits'. All these people were at this time unprotected under social insurance.⁵

In the decades that followed, the meaning of social exclusion was expanded to more and more social groups. In order to encompass new types of social disadvantage, the term 'social exclusion' was continually redefined, giving rise to its diffuse connotations. In the mid-1980s, the meaning of social exclusion started to be broadened. The French Government was blamed for not fighting unemployment, increasing inequality and giving rise to a 'new poverty'. In response to this criticism, the Government took to speaking of 'exclusion' in a broad sense, referring not only to the rise in long-term and recurrent unemployment, but also to the growing instability of social bonds: family instability, single-member households, social isolation, and the decline of class solidarity based on unions, the labour market, and the working-class neighbourhood and social networks.⁶ Later, the term 'exclusion' came to acquire further nuances of meaning include the rise of xenophobia, open political attacks on immigrants and restriction to their rights; the consequent emerge of new anti-racist movements; and the ongoing debate about integration occasioned by Muslim girls wearing headscarves at school. Finally, the exclusion discourse encompassed the issue of *banlieus* with the residents of these deprived neighbourhoods being increasingly described as 'excluded'.⁷

⁴ Jules Klanfer, *L'exclusion sociale*, Paris: Bureau de Recherches Sociales, 1965, 30.

⁵ See H. Silver, "Social exclusion and social solidarity: Three paradigms", in: 133 (1994) 5-6 *International Labour Review*, p. 532.

⁶ *Ibid*, p. 533.

⁷ *Ibid*, pp. 533 – 543.

As a result of an increasing political interest in the issue, extensive empirical research was initiated by national governments and by the European Commission in order to provide for statistical data on poverty and social exclusion.⁸ These surveys aim to develop indicators of poverty and social exclusion. They explore how people define poverty and social exclusion and attempt to measure social exclusion. Analytical approaches to social exclusion are rare.

In Britain the exclusion discourse became widespread after the Labour Government launched a 'social exclusion unit' (SEU) in 1997. The SEU published a series of reports on key issues, such as neighbourhood renewal, rough sleepers, teenage pregnancy, young people not in education, training or employment and truancy and school exclusion. 'The Poverty and Social Exclusion Survey of Britain' (PSE) distinguishes four dimensions of exclusion: impoverishment or exclusion from adequate income or resources; labour market exclusion; service exclusion; and exclusion from social relations.⁹ In 2000 a 'social investment taskforce' was launched to encourage private investment in not-for-profit and profit-seeking enterprises in deprived communities.¹⁰

The European Communities began to take an interest in the issue of poverty and social exclusion in the early 1990s. A Council Recommendation on "Common criteria concerning sufficient resources and social assistance in social protection systems"¹¹ was issued in 1992 on the basis of paragraphs 136 and 137 of the EC Treaty. Between 1994 and 2001 the Statistical Office of the European Communities (Eurostat) produced a panel survey in order to provide a statistical analysis of the situation in the European Union. The European Community Household Panel (ECHP) was a survey based on a standardised questionnaire that involved annual interviewing of a representative panel of households and individuals in each country, covering a wide range of topics: income, health, education, housing, demographics and employment characteristics, etc.¹² Social exclusion was defined "as the link between low income, activity status and number of

⁸ To name only a few: Mhoraig Green, "Everyone matters? Voices of people experiencing poverty in Scotland", published by the Joseph Rowntree Foundation 2007; Peter Kenway, Tom MacInnes, Aveen Kelly and Guy Palmer, "Monitoring poverty and social exclusion in Northern Ireland", published by the Joseph Rowntree Foundation 2006; Peter Kenway, Naomi Parsons, Jane Carr and Guy Palmer, Monitoring poverty and social exclusion in Wales, published by the Joseph Rowntree Foundation 2005 (updated 2007); Guy Palmer, Tom MacInnes and Peter Kenway, Monitoring poverty and social exclusion, published by the Joseph Rowntree Foundation 2007.

⁹ David Gordon et al., "Poverty and Social Exclusion in Britain", York 2000. The survey is available at <http://www.jrf.org.uk/bookshop/eBooks/185935128X.pdf> (accessed on 28 April 2008). The 'Monitoring poverty and social exclusion' series began in 1998. Its annual reports aim at providing an independent assessment of the progress being made in eliminating poverty and reducing social exclusion in Britain.

¹⁰ David Batty, "Social exclusion: the issue explained", in: Society Guardian, Tuesday January 15 2002. See <http://www.guardian.co.uk/society/2002/jan/15/socialexclusion1> (accessed on 28 April 2008).

¹¹ Council Recommendation of 24 June 1992 (92/441/EEC). See also Council Recommendation of 27 July 1992 (92/442/EEC).

¹² For information about the European Community Household Panel, see: <http://circa.europa.eu/irc/dsis/echpanel/info/data/information.html> (accessed on 28 April 2008).

indicators which relate to means, perceptions and satisfaction of the groups under study with respect to their standard of living and quality of life.”¹³

In March 2000 the Lisbon European Council decided to address the issues of poverty and social exclusion with the open method of co-operation. Key elements of that method are the definition of commonly-agreed objectives for the European Union as a whole, the development of appropriate national action plans to meet these objectives and the periodic reporting and monitoring of progress made.¹⁴ The overarching common objectives are defined as ‘social cohesion’ and ‘interaction with the Lisbon strategy growth and jobs objectives’.¹⁵ In addition to that, commonly used indicators are used to compare best practices and to measure progress towards the common objectives. The methodological framework consists of a list of primary and secondary indicators.¹⁶

As a general tendency it can be noticed that throughout the recent years the European Union has been attributing more importance to social issues. In particular, since the Lisbon and Nice Summits in 2000 the reference to the ‘European Social Model’ has become frequent. Often, social policy issues are addressed with reference to the principle of solidarity as one of the common values of the European Union. Recent examples are the Green Paper “Confronting demographic change: a new solidarity between the generations”¹⁷ and the according Communication of the Commission “Promoting Solidarity between the generations”¹⁸ or the Green Paper “Modernising labour law to meet the Challenges of the 21st century”.¹⁹

III. Solidarity in the Welfare State

Solidarity is one of the overarching principles of the welfare state. It is based on the idea of a connection between the individuals and the community, creating a social bond between the strong and the weak, the young and the old, and even the present and the future members of the community.

¹³ Lene Mejer, “Social Exclusion in the EU Member States”, in: *Statistics in focus: Population and Social Conditions (Theme 3)* 1/2000, at: http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/CA-NK-00-001/EN/CA-NK-00-001-EN.PDF (accessed on 28 April 2008).

¹⁴ Ian Dennis and Anne-Catherine Guio, “Poverty and social exclusion in the EU after Laeken - Part 1”, *Statistics in focus: Population and Social Conditions (Theme 3)* 8/2003 at: http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-NK-03-008/EN/KS-NK-03-008-EN.PDF (accessed on 28 April 2008).

¹⁵ See http://ec.europa.eu/employment_social/spsi/common_indicators_en.htm (accessed on 28 April 2008).

¹⁶ Social Protection Committee, Report on Indicators in the field of poverty and social exclusion October 2001, at: http://ec.europa.eu/employment_social/news/2002/jan/report_ind_en.pdf (accessed on 28 April 2008); European Commission, Portfolio of overarching indicators and streamlines social inclusion, pensions, and health portfolios, 7 June 2006, at: http://ec.europa.eu/employment_social/spsi/docs/social_inclusion/2006/indicators_en.pdf (accessed on 28 April 2008).

¹⁷ Green Paper “Confronting demographic change: a new solidarity between the generations”, Brussels, 16.3.2005, COM(2005) 94 final.

¹⁸ “Promoting Solidarity between the Generations”, Brussels, 10.5.2007, COM (2007) 244 final.

¹⁹ Green Paper “Confronting demographic change: a new solidarity between the generations”, Brussels, 16.3.2005, COM (2005) 94 final.

Historically speaking, the *concept* of the welfare state only emerged in the middle of the 20th century, more than one hundred years after the first legislated national poor relief programs and more than fifty years after the birth of modern social insurance. Interestingly, the first versions of a social state were not necessarily guided by a ‘solidaristic’ vision. When Bismarck first introduced a social insurance for workers, he was not motivated by the idea of solidarity but merely by strategic political intentions: He hoped that a modicum of redistribution in the form of pensions, sickness insurance and workers’ compensation would pre-empt the Social Democrats from winning a greater following and pursuing more ambitious attempts at justice.²⁰

Today, welfare states vary much in the degree of redistribution they embody, both between nations, and across any one’s country’s development. The intention of the proponents of the welfare state is, in general, to frame a state and a society based not only on the liberal ideals of individual freedom and property, but also on social justice and equality. The aim of social policy is to ameliorate inequality and poverty, minimise social risk, and optimise the distribution of well-being. In this way, concerns, which have formerly been individual, become a political and legal matter.²¹

Three types of welfare states can be distinguished: the ‘conservative-corporatist model’, the ‘social democratic model’ and the ‘liberal model’.²² The conservative-corporatist model is represented by Bismarck’s model of the welfare state. Its main objective is to guarantee workers’ income and it is mainly based on social security contributions. The social democratic model is inspired by Beveridge and mainly applied in Scandinavian countries. It aims at providing an income to all inhabitants and is financed by income tax. The Anglo-Saxon liberal model, which is also inspired by Beveridge, aims at fighting against poverty and unemployment and is, too, financed by income tax. More generally, a distinction can be drawn between welfare states that are mainly financed by social security contributions and those that are financed by income tax.

IV. The Philosophical Foundations of the Welfare State

From a legal theoretical perspective, the welfare state can be based on different philosophical foundations. For some authors, like John Rawls, the theoretical foundations of a welfare state are provided by a conception of social justice:

“A conception of social justice, [...] is to be regarded as providing in the first instance a standard whereby the distributive aspects of the basic structure of society are to be assessed.”²³

²⁰ Peter Baldwin, *The Politics of Social Solidarity*, Cambridge University Press, 1990, p. 3.

²¹ Gösta Esping-Andersen, *The Three Worlds of Welfare Capitalism*, London: Polity Press 1990, p. 20.

²² *Ibid.*, pp. 35 et seq.

²³ John Rawls, *A Theory of Justice*, revised edition, Oxford University Press 1999, p. 9.

The principles of justice which constitute the basic structure of society are considered to be the object of an original agreement. They are thought of as principles that free and rational persons, concerned to further their own interests, would accept in an initial position of equality as defining the fundamental terms of their association. Methodologically, Rawls adopts the paradigm of the natural state from the classical contract theories, introducing the *original position* as a hypothetical situation which is supposed to lead to a certain conception of justice as fairness. Justice as fairness conveys the idea that the principles of justice are agreed to in an initial situation that is fair. Therefore, the principles of justice are chosen behind a *veil of ignorance*. This ensures that no one is advantaged or disadvantaged in the choice of principles by the outcome of natural chance or the contingency of social circumstances. The general aim of Rawls' conception of justice is to nullify the accidents of natural endowment and the contingencies of social circumstances. It is intended to express a result of leaving aside those aspects of the social world that seem arbitrary from a moral point of view.²⁴

Rawls presupposes a particular concept of society. For him, society is “a more or less self-sufficient association of persons who in their relations to one another recognise certain rules of conduct as binding and who for the most part act in accordance with them, those rules specifying a system of co-operation designed to advance the good of those taking part in it.”²⁵ Once a society is not any longer designed to only advance the good of its members but is also effectively regulated by a public conception of justice, Rawls speaks of a *well-ordered society*. In other words, the implementation of the two principle of justice marks the transformation of a society from being a mere co-operative venture for mutual advantage into a community governed by considerations of solidarity.

While the former is equal to a system of co-operative division of labour determined to promote mutual advantage, corresponding with the idea of the civil society of Adam Smith or the *bürgerliche Gemeinschaft* of Hegel, the latter is a social community that is determined by principles of solidarity, compensation, mutual help and support. In their traditional form, those social communities were characterised by what may be called ‘concrete’ solidarity. It means that the members of such a community helped those in need on an individual and voluntarily basis - the concept of solidarity being determined by considerations of charity. In modern times the emphasis is shifted from acts of charity to duties of justice. States are transformed into welfare states by acting along the lines of a Rawlsian *difference principle* implying an abstract and bureaucratised concept of solidarity. It means that the support of the underprivileged is centralised and put in the hands of the state that enforces social justice by distributing a fixed amount of its taxes among those in need. In this way, acts of solidarity are no autonomous deeds of

²⁴ Ibid., pp. 11-15.

²⁵ Ibid., p. 4.

individuals intended to help individuals, but consist in the anonymous redistribution of wealth on the basis of concepts of social justice or social welfare.²⁶

While Rawls suggests that the *difference principle* “provides an interpretation of the principle of *fraternité*”²⁷, others, like Wolfgang Kersting²⁸ and Günter Frankenberg²⁹ insist on a “normative difference between justice and solidarity”. They favour the concept of solidarity as philosophical foundation of the welfare state, claiming that a principle of distributive justice is neither necessary nor useful to legitimate a welfare state. Their claim is based on two arguments. First, Kersting says, a theory of social justice does not allow for differentiation between people. The veil of ignorance is designed to abolish the differences between the individuals and thus prevents them from the possibility to consider the particularities of a person, his or her situation and interests. But this is considered a vital aspect of the concept of the welfare state by Kersting.³⁰ Secondly, the principles of justice are rejected for being metaphysical assumptions. Kersting argues that Rawls’ “contractualistic egalitarianism” is the wrong moral answer to a correct ethical diagnosis and demands a change of paradigms instead. According to him, the welfare state should not be ‘mechanical’ implementation of distributive justice but an expression of the collective solidarity of a political community. In other words, the theoretical framework of the welfare state should not be provided by a theory of justice but it should be built on a theory of ‘operationalized’ solidarity.³¹ The paradigm suggested by Kersting and Frankenberg is one of *political solidarity*.³² But that does not mean that they consider the concept of social justice entirely superfluous. They simply believe that considerations of justice must play a different role than egalitarian liberals like Rawls attribute to it in the welfare state. According to them, the theoretical framework of the welfare state is provided by a concept of solidarity, and the principle of distributive justice applies to the mechanism of distribution *within* the particular areas covered by social benefits.³³

V. Different concepts of solidarity

Concepts of solidarity, generally, rest on the premise that individuals are interdependent social beings living in the social structure of a community.³⁴ There are two principle

²⁶ Ibid.

²⁷ J. Rawls, *A Theory of Justice*, pp. 60, 105.

²⁸ Wolfgang Kersting, *Theorien der sozialen Gerechtigkeit*, Stuttgart: J. B. Metzler Verlag 2000, p. 22.

²⁹ Günter Frankenberg, “Republik und Sozialstaat, Stichworte zum Zusammenhang von öffentlicher Freiheit und ziviler Solidarität”, in: 81 (1995) 1 *Kritische Vierteljahresschrift für Gesetzgebung und Rechtswissenschaft*, pp. 25-41.

³⁰ W. Kersting, *Theorien der sozialen Gerechtigkeit*, p. 60.

³¹ Ibid, 376.

³² Ibid, pp. 378, 383, 384.

³³ Ibid., p. 378 et seq.

³⁴ This conception of interdependence is different from communitarian approaches. Communitarians approaches tend to see the community as prior to the individuals. The concept of solidarity, on the other hand, is based on the idea of society (or community) as an entity or a social fact in its own right. For Durkheim, society is “a *sui generis* being with its own special nature, distinct from that of its members, and

ways in which solidarity is conceptualized in the welfare state. One approach is related to the idea of *community* and the other to the concept of a *risk pool*.

A community is an ethical entity whose members were linked to one another by an inner social bond.³⁵ In terms of the distinction between *community* and *civil society* as drawn by the sociologist Ferdinand Tönnies, a community would be composed of people who are “related to each other as natural members of a whole”.³⁶ The community is perceived as a homogenous group of people who are willing to help one another in times of need. The readiness to mutual support results from a sense of solidarity in that community.

The risk pool is created out of the awareness of mutual dependence.³⁷ It is organised in the form of insurance. By applying the instruments of social insurance the state redistributes the costs of risk and misfortune in a society. In this way, the effects of fate, luck and social circumstances are reallocated to all members of the risk pool. Once risks are pooled, the individual faces uncertainty not longer alone but as part of a larger group. Concerns that have formerly been individual become political.³⁸

1. Social Solidarity

The concept of *social solidarity* was used by Emile Durkheim to describe the social bond (*le lien social*) which unites a community. Living in a time of growing individualism, social dislocation and moral diversification, he was concerned with the general relations of the individual to the social group and set out to answer the question: How does (social) integration function? He argued that the social bond in modern societies is created by the division of labour. In his eyes, the division of labour creates a specific social and moral order.³⁹

Durkheim distinguishes two forms of *social solidarity*: mechanical solidarity and organic solidarity. While *mechanical solidarity* relies on resemblance and conformity of the individuals of a collective, *organic solidarity* arises from the division of labour, resulting from and even intensifying the differences of the individuals. In its mechanical form, solidarity is predominately found in traditional societies. Mechanical solidarity is the sort of solidarity which holds together rural, simple societies. It is solidarity by similarities. These societies consist of a homogenous group of people who all have the same interests. There is no difference between the interests of the individual members of the group and

a personality of its own different from individual personalities.” (Steven Lukes, *Émile Durkheim. His Life and Work: A Historical and Critical Study*, Stanford University Press 1985, p. 11).

³⁵ Émile Durkheim, *De la division du travail social* (1897), 8th edn., Paris: Les Presses universitaires de France 1967). All quotations are taken from Émile Durkheim, *The Division of Labor in Society*, translated by W.D. Halls, New York: The Free Press 1997.

³⁶ Ferdinand Tönnies, *Gemeinschaft und Gesellschaft: Grundbegriffe der reinen Soziologie* (8th edn. 1935), Darmstadt: Wissenschaftliche Buchgesellschaft 2005. The quotation is taken from Ferdinand Tönnies, *Community and Civil Society*, edited by Jose Harris, translated by Margaret Hollis, Cambridge University Press 2001, p. 187.

³⁷ François Ewald, *L'État-providence*, Paris : Bernard Grasset, 1986, p. 30.

³⁸ Peter Baldwin, *The Politics of Social Solidarity*, Cambridge University Press, 1990, p. 32.

³⁹ É. Durkheim, *The Division of Labor in Society*, p 21.

the group itself: The individual consciousness coincides with the collective consciousness (*conscience collective*). For Durkheim, it is “*une loi de l’histoire*” that mechanical solidarity is progressively replaced by *organic solidarity* the main source of which is the division of labour. During a process of differentiation, the division of labour is increased, leading to more individualisation. Both forms of solidarity can co-exist, but the significance of organic solidarity expands in the course of evolution. The development of organic solidarity presupposes the existence of mechanical solidarity. According to Durkheim, the division of labour does not develop from a “state of nature” but differentiation takes place within a society.⁴⁰ The differentiation leads to the development of individual interests which do not coincide with the interest of the collective.

But how can the division of labour – a phenomenon which promotes separation, individualization and differentiation – support the cohesion of a group or a collective? Durkheim finds a solution in ascribing a moral function to the division of labour. He assumes that it possesses a character which goes beyond its mere economic usefulness and which “constitutes the establishment of a social and moral order *sui generis*”.⁴¹ As a result, individuals, who would otherwise be independent, are now linked to one another. That is the way in which functional interdependence fosters organic solidarity. The individuals are *functionally* linked with one another because they are dependant on each other. This implies that the social relationships in modern societies are predominantly indirect or anonymous. They do no longer rely on personal relationships, but on complementary interests.

What is the role of law in relation to solidarity? Durkheim does not distinguish between morality and law. For him, solidarity is both a moral and a legal phenomenon. He assumes that law is the visible symbol of a moral phenomenon – the social fact which can be observed. The law reflects all the essential varieties of social solidarity. Criminal law, with its repressive sanctions, reflects mechanical solidarity; civil law reflects organic solidarity, since it upholds the typical instruments of interdependence, e.g. the institution of contract.

2. “*Le Contrat de Solidarité*”

For François Ewald solidarity is based on a new social contract: *un contrat de solidarité*.⁴² It is a contract concluded by the members of a society in consideration of their interdependence. The *contrat de solidarité* rests on three postulates:

(1) It assumes that human beings are interdependent. Knowing that they benefit from the cooperation, they want to maintain it.

⁴⁰ Ibid., p. 149.

⁴¹ Ibid., p. 21.

⁴² F. Ewald, *L’État-providence*, p. 30.

(2) Human beings recognize one another as fellow men in the sense that they accept each other as individuals of equal social value.

(3) Certain collective goods are introduced to maintain the functioning of the collective.

Early forms of contractual solidarity can be found in medieval guilds. Entering the guild entailed the contractual promise of mutual solidarity with all other members of this association. The guild formed a risk pool based on a scheme of institutionalised assistance. Ewald assumes that, in forming a community, the individuals create an entity *sui generis*. This entity transforms their interdependence into an obligation of mutual assistance, which is mediated by this very community. Solidarity becomes a reciprocal promise of individuals to assist one another in time of need (“one for all, all for one”). When organised at the level of the state, solidarity takes the form of state-controlled reallocation of risk. On this view, the welfare state represents the redistribution of the social risks of its citizens.

VI. Social Exclusion in the Welfare State

The welfare state has been subject to criticism for a number of reasons. Liberal or ‘New Right’ theorists challenge the institution of the welfare state as such and wish to reduce its scale. Proponents of the welfare state approve of the institution as such but criticise the existing regulations in order to improve the welfare state system. Paradoxically, the criticism of the opponents and the proponents of the welfare state overlap when it comes to the question of social exclusion. Although their arguments are based on entirely different premises, both sides criticise the welfare state for being the cause for social exclusion.

The ‘New Right’ theorists were not primarily concerned with the problem of social exclusion. Their main aim was ‘to bring welfare spending under control’. The core features of their argumentation included a critique of the economics of state interventionism, an economic and moral critique of the welfare state, and an advocacy of free market mechanisms in all areas of public policy including the meeting of welfare needs in society.⁴³

First, the ‘New Right’ theorists argue that the provision of public welfare erodes market incentives because it provides people with a guaranteed source of income during difficult circumstances. This, they assume, makes the search for work, especially for low paying jobs, less diligent for people than it would if such income protection were not available.⁴⁴ It is presumed that one of the main reasons for social exclusion is connected to poor education and long time unemployment:

⁴³ Desmond S. King and Jeremy Waldron: “Citizenship, Social Citizenship and the Defence of Welfare Provision”, in: 18 (1988) 4 *British Journal of Political Science*, pp. 415-433, 416.

⁴⁴ See David G. Davis, *United States Taxes and Tax Policy*, Cambridge University Press 1986; Hans-Werner Sinn et al., „Aktivierende Sozialhilfe: Ein Weg zu mehr Beschäftigung und Wachstum, IFO Reformvorschlag“, München 2002; Hans-Werner Sinn, *Can Germany be saved? The Malaise of the World's First Welfare State*, London: The MIT Press 2007, p. 287.

“High unemployment is linked to generous benefits that run on indefinitely and to poor educational standards at the lower end of the labour market – the phenomenon of exclusion.”⁴⁵

Secondly, the welfare state is considered as economically damaging for crowding out private investment and having a negative impact on individual savings as a basis for investment.⁴⁶ Thirdly, the New Right theorists claim that the welfare state has a negative effect on the family because it provides support when families break down. They allege that this leads to the disintegration of families or even encourages some people not to enter in families at all. A fourth criticism is connected to the effect the welfare state on the freedom of the individual. The opponents of the welfare state claim that the bureaucracy of welfare institutions reduces individual freedom and enhances state power because collective provision limits the role of market processes. Market powers, and not collective provision, are seen as the most powerful guarantors of political liberty and economic prosperity⁴⁷ Finally, it is argued that being financed out of taxation or compulsory premiums, the welfare state involves interferences with private property and direct coercion of those individual taxpayers who would rather not contribute to ‘compulsory charity’ in this way.⁴⁸

While the attacks of the opponents of the welfare state aim to reduce welfare provisions to a minimum, the supporters of the welfare state want to change specific provisions in order to improve the welfare state system. They criticise the fact that welfare regulations which ought to sustain social solidarity foster social exclusion instead. Their view on the problem is connected with their conception of the welfare state.

1. Social citizenship

For some authors, citizenship has taken on “a central role in these debates as the socially excluded have increasingly been identified with those for whom citizenship rights have either not been actualized or denied.”⁴⁹ These authors understand social exclusion in terms of a denial of citizenship rights. They focus on the inability to exercise the social rights of citizenship, e.g. the right to a decent standard of living. Here, social exclusion is linked to deprivation and poverty.

⁴⁵ Stephen Nickell, “Unemployment and labour market rigidities”, 11 (1997) *Journal of Economic Perspectives* (quoted in: A. Giddens, *The Third Way*, p. 122).

⁴⁶ D. G. Davis, *United States Taxes and Tax Policy*, Cambridge University Press, 1986.

⁴⁷ Milton Friedman, *Capitalism and Freedom*, The University of Chicago Press, 2002; F.A. Hayek, *The Road to Serfdom*, The University of Chicago Press, 1994.

⁴⁸ Robert Nozick, *Anarchy, State and Utopia*, New York: Basic Books Inc., 1974.

⁴⁹ Rob Atkinson, “Citizenship and the Struggle against Social Exclusion in the Context of Welfare State Transition”, Beitrag zum ECPR Workshop 18: Citizenship and Transition in European (Welfare) States, 27.2.-4. 3. 1997 at Bern, p. 2 (quoted in Katrin Mohr, *Soziale Exclusion im Wohlfahrtsstaat. Arbeitslosensicherung und Sozialhilfe in Großbritannien und Deutschland*, Wiesbaden: VS Verlag für Sozialwissenschaften, 2007, p. 14).

Theories of citizenship generally draw upon T. H. Marshall, who defines citizenship as a status which is enjoyed by a person who is a full member of a community. Citizenship is for him “a status bestowed on those who are full members of a community.”⁵⁰ Marshall divided citizenship into three components: civil, political and social. He claimed that they had once been wound into a single strand in some golden age, but were since then unravelling. One after another they had been recovered, each in its own century: civil rights in the eighteenth, political in the nineteenth and social in the twentieth century. This corresponds with the human rights doctrine of the three generations of fundamental or human rights. The first set of rights, which comprises *civil rights*, refers to the rights concerning the individual freedom. These rights are associated with the sphere of ‘civil society’: ‘liberty of the person, freedom of speech, thought and faith, the right to own property and to conclude valid contracts, and the right to justice.’⁵¹ The second set, which comprises *political rights*, refers to democratic rights of participation. These rights include ‘the right to participate in the exercise of political power, as a member of a body invested with political authority or as an elector of the members of such a body.’⁵² The third set comprises *social rights*. By these, Marshall meant economic and welfare rights, rights to a minimum standard of welfare and income: ‘the whole range from the right to a modicum of economic welfare and security to the rights to share to the full in the social heritage and to live the life of a civilized being according to the standards prevailing in the society.’⁵³ Those, to whom those rights are denied, are socially excluded. They are not any longer full members of that community.

2. The ‘new underclass’

The exclusion from full membership involves a rupture of the social bond within the community. Marshall pointed out that citizenship is based on the sense of community membership, requiring “a bond of a different kind, a direct sense of community membership based on loyalty to a civilization which is a common possession.”⁵⁴

The rupture of the social bond leads to a fragmentation of societies and the abandonment of a part of the population. One of the consequences is the development is the formation of a ‘new underclass’.⁵⁵ In the long run, this can lead to social tension that discharges in aimless and self-destructive revolts which can only be controlled by repressive means, resulting in the construction of more prisons and increasing internal security in general. Exemplarily, such a development can be observed in Belgium and also in France as a reaction to the rallies in the suburbs of Paris that took place in 2007. Once social destitution infects the infrastructure of the inner cities of even whole regions, it is likely to penetrate the pores of the society as a whole. Ultimately, this can undermine democracy when political participation no longer reflects the entire spectrum of the political community:

⁵⁰ T.H. Marshall and Tom Bottomore, *Citizenship and Social Class*, London: Pluto Press, p. 18.

⁵¹ *Ibid.*, p. 71

⁵² *Ibid.*, p. 72

⁵³ *Ibid.*, p. 72

⁵⁴ *Ibid.*, p. 24

⁵⁵ Jürgen Habermas, *The Inclusion of the Other: Studies in Political Theory*, edited by Ciaran Cronin and Pablo De Greiff, London: Polity Press, Cambridge 1999, p. 121.

“Formally correct majority decisions that merely reflect the status anxieties and self-assertive reflexes of a middle class threatened by the prospect of social decline undermine the legitimacy of the procedures and institutions of the democratic constitutional state. In this way the great achievement of the nation-state in integrating society through the political participation of its citizens is squandered.”⁵⁶

This approach is based on the idea that the welfare state is not merely an egalitarian machinery to redistribute wealth but that it fosters the political independence of its citizens by guaranteeing their economic independence. The establishment of social benefit rights is derived from the idea that the realisation of the civic rights depends, at least partly, on economical factors. Without physical, psychological and moral independence and autonomy, and without a certain basic economical security, the traditional civic rights cannot have the impact they are supposed to have according to the liberal idea of self-determination and individual pursuit of a meaningful life.⁵⁷

3. The Paradigm Change in the Welfare State

The phenomenon of social exclusion is also linked to a paradigm change that has taken place in the welfare state during the last decade. A paradigm is what the members of a scientific community share. When a paradigm change takes place it causes the members of a scientific community to see the world of their research-engagement differently.⁵⁸ The perception of the welfare state and its underlying assumptions has changed significantly in the course of the last years. These changes had an effect not only on the philosophical foundations of the welfare state but they also put the concept of solidarity into question.

The paradigm change in the welfare state began to become apparent in the early 1990 when Bill Clinton announced “to end welfare as we know it” and proclaimed a transition “from welfare to workfare” in the USA. Only a few years later, Tony Blair began to implement Anthony Giddens’ idea of a “positive welfare” in a “Social Investment State” and set out for the *Third Way*.⁵⁹ Germany took on the idea of a third way with *Bundeskanzler Schröder* and his *Agenda 2010* pleading for a transition of the welfare state into a “*leistungsfähiger Sozialstaat*” (efficient welfare state).⁶⁰ The new terms are an indicator of changing welfare state rhetoric. But they entail more than mere terminological shift. The terminological shift implies a paradigmatic change of the

⁵⁶ Ibid., p. 122.

⁵⁷ G. Frankenberg, *Republik und Sozialstaat*, p. 29.

⁵⁸ Thomas S. Kuhn, *The Structure of Scientific Revolutions*, 3rd edn., London, Chicago: The University of Chicago Press 1996, pp.111 and 176.

⁵⁹ A. Giddens, *The Third Way*, pp. 99-128.

⁶⁰ See *Regierungserklärung von Bundeskanzler Schröder am 14. März 2003 vor dem Deutschen Bundestag* [Government declaration of Federal Chancellor Gerhard Schröder of 14 March 2003 on the Agenda 2010] , at http://archiv.spd.de/servlet/PB/show/1025523/Regierungserklaerung_Gerhard_Schroeder_2003_03_14.pdf (accessed on 28 April 2008).

philosophical foundations of the welfare state and a fundamental change of the understanding of the concept of solidarity as the basis of the welfare state.

For Durkheim, social solidarity was based on the division of labour. But this division of labour or co-operation was not merely something produced automatically by the fact that each person follows his own interests but, in his view, co-operation has an “intrinsic morality”.⁶¹ In this way, the division of labour plays a much more important role than is normally attached to it. For Durkheim, the division of labour is a moral concept that is constitutive for social cohesion and solidarity in a community. This perception of co-operation rests on the assumption that people are interdependent. According to Durkheim,

“the most notable effect of the division of labour is not that it increases the productivity of the functions that are divided in this way, but that it links the very close together. In all the cases, its role is not simply to embellish or improve existing societies, but to make possible societies which, without these functions, would not exist. ... It is possible that the economic usefulness of the division of labour has had some bearing upon the outcome. In any case, however, it goes very considerably beyond the sphere of purely economic interests, for it constitutes the establishment of a social and moral order *sui generis*. Individuals are linked to one another who would otherwise be independent; instead of developing separately, they concert their efforts. They are solidly tied to one another and the links between them function not only in the brief moments when they engage in an exchange of service, but extend considerably beyond.”⁶²

The new approaches to welfare state, on the other hand, have stripped the concept of solidarity of its moral dimension and instead focus on the economic usefulness of the division of labour. Solidarity is no longer seen as something that “ensures the cohesion of societies”⁶³ but as something of pure economic interest. In a very literal sense, the term *labour* has begun to dominate the welfare discourse. Emphasis is put on the need to ‘activate’ people and to encourage them to join the labour force.

In the new welfare state the paradigm shifted from a concept of solidarity based on interdependence in the moral sense (Durkheim) or mutual support based on a social contract (Ewald) to a concept of solidarity that focuses on the inclusion of people in the labour market. This paradigm change is reflected by the political strategies for social inclusion, both at national and European level. They mainly focus on the link between labour and social exclusion.

The “Social Exclusion Unit” (SEU) of the British Government defines social exclusion in a broad sense. For them, social exclusion is “about more than income poverty. Social exclusion happens when people or places suffer from a series of problems such as

⁶¹ É. Durkheim, *The Division of Labor in Society*, pp. 149 and 174.

⁶² *Ibid.*, p. 21.

⁶³ *Ibid.*, p. 23.

unemployment, discrimination, poor skills, low income, poor housing, high crime, ill health and family breakdown. When such problems combine they can create a vicious circle.”⁶⁴ However, the focus of attention is on labour market inclusion. This becomes apparent in ‘The Poverty and Social Exclusion Survey of Britain’ (PSE) of 2000 which states that “individual attachment to the labour market is increasingly held to be important not just because it is a route to an adequate income, but because paid work is seen as an important arena for social contact and social interaction.”⁶⁵ On the other hand, the survey also points out to the fact that lack of time due to paid work can contribute to the exclusion from social relations.⁶⁶

The European Union emphasizes the “multidimensionality of the phenomenon of social exclusion”.⁶⁷ But the core policy measures are, too, aimed at the inclusion in the labour market. They emphasise the fact that “being in employment is an effective way to secure oneself against the risk of poverty and social exclusion is clearly borne out by the evidence and has been recognized by the European Councils of Lisbon, Nice and Stockholm where Member States highlighted the importance of promoting participation in employment as a means of preventing and alleviating poverty and social exclusion.”⁶⁸ Ultimately, this paradigm change leads to the formation of a new group of excluded persons: those excluded in the welfare state or the “Überflüssigen” (people that are “dispensable”).⁶⁹

VII. Conclusions

Because of its multiple, often contradictory, connotations and synonyms, social exclusion is considered an ‘essentially contested concept’ by some authors.⁷⁰ Essentially contested concepts are “concepts the proper use of which inevitably involves endless disputes about their proper uses on part of their users.”⁷¹ As we have seen, the concept of social exclusion is used in different contexts. When it focuses on the inability to exercise the social rights of citizenship, e.g. the right to a decent standard of living, it is seen as synonymous with poverty and deprivation. When the emphasis is put on the importance of individual choice and the exclusion from opportunities, social exclusion focuses on the similarity to discrimination. Still, both approaches have in common that they stress the

⁶⁴ Website of the Cabinet Office’s Social Exclusion Task Force at: http://www.cabinetoffice.gov.uk/social_exclusion_task_force/ (accessed on 28 April 2008).

⁶⁵ D. Gordon et al, “Poverty and Social Exclusion in Britain”, p. 54.

⁶⁶ Ibid., p. 63.

⁶⁷ I. Dennis and A.-C. Guio, “Poverty and social exclusion in the EU after Laeken”, p. 6.

⁶⁸ “In-Work Poverty: New commonly agreed indicators at the EU level”, in: *Statistics in focus: Population and Social Conditions (Theme 3) 5/2005*, p. 2 at http://ec.europa.eu/employment_social/spsi/docs/social_inclusion/statistics5-2005_en.pdf (accessed on 28 April 2008). It has to be noted though, that the same document points out that holding a job is not always sufficient to escape poverty. See also the website of the European Commission on “Social Protection Social Inclusion” at http://ec.europa.eu/employment_social/spsi/common_indicators_en.htm (accessed on 28 April 2008).

⁶⁹ Heinz Bude (ed.), *Exklusion: Die Debatte über die „Überflüssigen“* [Exclusion: The Debate about ‘dispensable’ people], Frankfurt am Main: Suhrkamp 2008.

⁷⁰ H. Silver, “Social exclusion and social solidarity: Three paradigms”, p. 540.

⁷¹ Walter Bryce Gallie, *Essentially Contested Concepts*, in: “Proceedings of the Aristotelian Society”, Vol. 56, 1956, p. 169.

meaning of social exclusion as social distance, marginalization, and inadequate integration. Exclusion refers to mechanisms that act to detach people or groups of people from the social mainstream.⁷²

There are two different forms of exclusion that can be observed in contemporary societies: exclusion ‘at the top’ and exclusion ‘at the bottom’.⁷³ Exclusion at the top takes place when privileged groups withdraw from public institutions and choose to live separately from the rest of the society, pulling out from public education and public health systems. In this way, exclusion is deliberately used by one group of society as a means of social control and boundary maintenance allowing insiders to monopolize resources. The other form of exclusion is an involuntary preclusion of those ‘at the bottom’ cutting them off from the mainstream of opportunities in society. For them, however, social exclusion is not so much an issue of being *up* or *down* but rather an issue of being *in* or *out*.⁷⁴ All forms of exclusion, both voluntary and involuntary exclusion, are a signal for the rupturing of the social bond and an expression of declining solidarity. With the loss of collective values and the destruction of the social bond, exclusion becomes a threat to society as a whole.

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⁷² See H. Silver: “Social Exclusion”.

⁷³ A. Giddens, *The Third Way*, p. 104-105.

⁷⁴ See H. Silver: “Social Exclusion”.