

The Triadic Nexus: Lessons Learned from the Status Law

Walter Kemp

In *Nationalism Reframed*, Rogers Brubaker describes a triadic nexus between national minorities, nationalising states, and external national homelands. This nexus was evident in the relationship between Hungary, its neighbouring states like Slovakia and Romania, and Hungarian communities living in those states as they debated the implementation of the Act on Hungarians Living in Neighbouring States. This paper looks at the motivations of these actors and their interaction with each other, and it argues that their behaviour also should be considered in the context of a fourth variable, the international community. It will look at what lessons can be learned in terms of the applicability of Brubaker's theory, the implications of kin-state politics, the protection of national minorities, bilateral relations, and the role of European institutions in dealing with such situations.

This paper only briefly examines the reasons behind the law's creation, the debate about its adoption, and its contents. It also avoids a detailed narrative of the fascinating diplomatic and political events that occurred between the law's adoption in June 2001 and its amendment in May 2003 (which I was personally involved in and have written about elsewhere).¹ Despite the fact that the Status or Preference Law would have effects in all neighbouring states with the exception of Austria,² I have limited the scope of the paper to Slovakia and Romania as they have the biggest Hungarian minority communities and were the most outspoken critics of the Law.

¹ 'Positive Trend or Dangerous Precedent? The Hungarian Status Law', paper delivered at a conference on *Nations, Minorities and European Integration*, Florence, May 2004. Copies available upon request of author at <walter.kemp@osce.org.>

² Austria was excluded after the EU complained that there could not be discrimination on the basis of ethnicity. This fact was later seized upon by Slovakia and Slovenia which argued as EU accession countries that they deserved the same legal treatment as Austria.

Home States, Kin-states and National Minorities

Nations and states seldom overlap. Most states are multi-ethnic, and most 'nations' are divided by state boundaries. Because of the twists of fate and the tides of history, some ethnic groups within Europe (like Russians, Serbs, Albanians, and Hungarians) live outside the state that bears their name and are therefore minorities in a neighbouring state. Relations between these minorities and the majority communities of the states where they live may be sometimes strained. When a neighbouring state has a majority population that shares the same ethnicity and cultural/linguistic or historical ties with that minority community, the chance of minority issues affecting bilateral relations is relatively high, although not inevitable. This can further complicate intra-state relations between the minority and the majority as well as relations between the minority and its so-called kin-state.

In *Nationalism Reframed*, Brubaker describes this relationship as a 'a triad linking national minorities, the newly nationalizing states in which they live, and the external national "homelands" to which they belong, or can be construed as belonging, by ethnocultural affinity though not legal citizenship'.³ In looking at this relationship, one has to consider three relationships, all of which are inter-connected: kin-state and national minority; kin-state and home state; home state (majority population) and national minority. This is not a static relationship. The components of the nexus 'are linked by continuous mutual monitoring and inter-action. Moreover, the three "elements" in the triadic relation are themselves not fixed entities but fields of differentiated and competing positions, arenas of struggle among competing stances'.⁴ The shifting nature of this relationship is what makes it unstable and potentially explosive.⁵

Brubaker's triadic nexus provides a useful framework for looking at the relationship between so-called home states, kin-states and minorities, albeit as a type of short hand. But from the beginning one should be careful about the terminology as words have loaded meanings which, in themselves, can be the source of disagreement.

³ Rogers Brubaker, *Nationalism Reframed: Nationhood and the National Question in the New Europe* (Cambridge, 1996), p. 4.

⁴ *Ibid.* p. 8.

⁵ *Ibid.*

‘Home state’ is a relatively straight-forward term: it is the state where the minority lives. Usually persons belonging to national minorities are citizens of the home state, although there are exceptions, such as many Russians in Latvia and Estonia. The home state is not necessarily the ‘homeland’ if minorities feel an affinity with a mother country that is not the state in which they reside.

As Brubaker suggests, the state where the minority lives may be what he calls a ‘nationalizing’ state. By this he means new or newly reconfigured states that are ‘ethnically heterogeneous yet conceived as nation-states, whose dominant elites promote (to varying degrees) the language, culture, demographic position, economic flourishing, or political hegemony of the nominally state-bearing nation’.⁶ In such cases, civic society is undermined by ethnic hierarchy, which leads to discrimination and a feeling among minorities that they are not equal members of the state. Such characteristics are evident from states that have thrown off the yoke of imperialism, emerged from flawed federations and/or survived communism. Obvious examples are Croatia under Tudjman and Slovakia under Mečiar.

In such nationalising states, minorities may feel that the state is structured and governed in favour of the majority and that their identity is under threat. This may lead them to push for a better deal within the state, secession, and/or outside support, perhaps from a ‘kin-state’.

One may unwittingly be a nationalising state, even if promoting the majority nationality’s agenda is not a concerted policy. As Brubaker notes, it is enough that one is perceived as being a nationalising state by the national minority or kin-state.⁷

A state may act like a nationalising state in reaction to a perceived threat to its identity (even sovereignty) by one of their minorities’ kin-state and the latter’s relations with this minority. In order to demonstrate their ability and willingness to defend the homeland, elites in the majority community may accentuate their nationalist credentials, thereby further polarising bilateral and inter-ethnic relations.

A kin-state can be considered ‘Etat-parent’, ‘the motherland’, or ‘external homeland’ as Brubaker calls it. The idea is that there is some sort of kinship—on the basis of history, culture, language, or ethnicity—

⁶ Ibid. p. 57.

⁷ Ibid. p. 63.

that bonds members of a ‘nation’ to a protective homeland, even if they do not live there.

The idea of the kin-state is based on the rather nineteenth century premise that nations are bonded by ties of ethnic kinship. This notion of blood and belonging presupposes a primordial, almost tribal, linkage that, when given a political expression, provides argumentation—if not legal justification—for leaders and defenders of the nation to take action on behalf of all those linked by kinship. This gets messy and potentially conflictual if states take unilateral action outside their sovereign jurisdiction in the name of defending ‘national’ interests.

In promoting a nation-based agenda, a kin-state may behave like a nationalising state, but on a grander scale. Whereas the nationalising state’s ambitions are confined to its own borders, a kin-state may seek to protect ‘co-nationals’ (on the basis of kinship rather than citizenship) wherever they live (usually in a neighbouring state). Such a policy is usually based on a sense of historical grievance, nostalgia for a golden age of greater nationhood, nationalistic populism, concern for the plight of kin, and/or as a means of exerting pressure on a neighbouring state.

That being said, a kin-state does not automatically act in this way. As Brubaker points out, ‘external national homelands are constructed through political action, not given by the facts of ethnic demography. A state becomes an external national “homeland” for “its” ethnic diaspora when political or cultural elites define ethnocultural kin in other states as members of one and the same nation, claiming that they “belong”, in some sense, to the state and assert that their condition must be monitored and their interests protected and promoted by the state; and when the state actually does take action in the name of monitoring, promoting, or protecting the interests of its ethnonational kin abroad’.⁸ So kinship is as much a function of political instrumentalism as cultural bonding. Playing the kin card may have more to do with promoting the interests of a nationalistic elite in the kin-state (particularly before elections or party conferences) than with defending the concerns of minorities in neighbouring states.

The lynchpin between kin-state and home state in the triadic nexus is the national minority. ‘Nationalizing states and external national homelands advance competing jurisdictional claims over the same set of

⁸ Brubaker, *op. cit.*, p. 58.

persons'.⁹ Both sides claim ownership, arguing that the minorities 'belong' to them—to the nationalising state by citizenship, to the homeland by putative ethnocultural nationality.¹⁰ 'The nationalizing state, appealing to norms of territorial integrity and sovereignty, asserts that the status and welfare of its citizens, whatever their ethnocultural nationality, is a strictly internal matter over which it alone has legitimate jurisdiction. The external national homeland, rejecting this view, asserts that its rights and responsibilities vis-à-vis "its" (transborder) nation cut across the boundaries of territory and citizenship, that it has the right, even the obligation, to monitor, promote, and, if necessary, protect the interests of "its" ethnic co-nationals even when they live in other states and possess other citizenships. Precariously situated between these competing claims are the national minorities themselves—sharing citizenship but not (ethnocultural) nationality with the nationalizing state, and sharing nationality but not citizenship with the external national homeland'.¹¹

That is not to say that minorities are always pawns in the hands of competing claimants. In order to leverage their position in the home state, minorities may seek support from sympathetic elites in the kin-state. This, in turn, can affect the internal politics of the kin-state, where parties may jockey to demonstrate their concern for the fate of their kin and their ability to defend national interests.

The instrumental use of trans-border kinship ties may have a profound affect on the internal dynamics of minority groups in the home state. Hard-liners may push for more external support, whereas moderates (who are sometimes even part of the government) may not want to risk inflaming majority nationalism and straining bilateral relations between the kin-state and the home state, yet cannot appear to be selling out the interests of their constituency.

To illustrate the triadic nexus in practice let us turn to the case of the Hungarian Status Law.

⁹ Ibid. p. 111.

¹⁰ Ibid.

¹¹ Ibid.

I. Neighbouring States as Nationalising States?

On 10 June 2001, the Hungarian Parliament adopted an Act on Hungarians Living in Neighbouring States in order 'to comply with its responsibility for Hungarians living abroad and to promote the preservation and development of their manifold relations with Hungary',¹² as well as to 'ensure that Hungarians living in neighbouring countries form part of the Hungarian nation as a whole to promote and preserve their well-being and awareness of national identity within their home country'.¹³ The idea of the Law, introduced by Viktor Orbán's FIDESZ government and endorsed by more than 90 per cent of parliamentary members, was to support Hungarians living in countries in the communities where they live in order to protect and promote their culture, discourage brain-drain, and maintain close links between Hungary and Hungarians abroad, particularly after Hungary joined the European Union.

The very creation of the Status Law was a swipe at neighbouring states. The insinuation was that they were not doing a proper job of protecting and promoting the rights and interests of Hungarian minorities under their jurisdiction. The main offenders were considered to be Slovakia and Romania.

This was not completely fair. Under the successive governments of Mikuláš Dzurinda, Slovakia tried to take steps to make up for the poor record of national minority protection under the Mečiar regime. Immediately on coming to power in November 1998, the new government (which included the Hungarian Coalition Party [SMK]) abolished a controversial law on local elections, reintroduced school certificates in both the state and minority languages, and committed itself to introducing a new law on minority languages. Still, not all promises were delivered and the SMK became dissatisfied that the law on minority languages (adopted in July 1999) was too weak, public administration reform did not take into account two regions with a high concentration of ethnic Hungarians, there was no progress on increasing opportunities for Hungarian-language teacher training, and there was no prospect of a state-funded Hungarian university. Relations between the SMK and its coalition

¹² As prescribed in paragraph 3 Article 6 of the Constitution of the Republic, see preamble to Act on Hungarians Living in Neighbouring Countries.

¹³ See preamble to the Act on Hungarians Living in Neighbouring Countries.

partners were, therefore, sometimes acrimonious. But the parties were usually able to resolve their differences within the coalition through the normal give and take of political compromise. The SMK's bargaining position was strengthened after it became the second strongest party in the coalition after the unexpected re-election of Dzurinda in autumn 2002.

In Romania, relations between the ruling Social Democratic Party (PSD) and the Democratic Alliance of Hungarians in Romania (DAHR) were cordial and mutually beneficial. Through its relations with the PSD—formalized through a protocol—the DAHR was able to make considerable progress on core Hungarian minority issues, most notably public administration reform that guaranteed official use of minority languages in communities where Hungarians make up at least 20 per cent of the population and some progress on higher education reform (albeit short of a state-funded Hungarian language university).

In short, while the SMK and DAHR were not able to get everything that they wanted—or even everything that had been agreed upon in the Government programme (in Slovakia) or the PSD-DAHR protocol (in Romania)—inter-ethnic relations were no longer a hot issue in either country, and significant improvements were being made in terms of the protection and promotion of national minorities (particularly the Hungarian minority). The preambles of the two Constitutions still contain the language of nationalising states—in Slovakia referring to 'We, the Slovak people [Mý narod slovensky]' and in Romania to 'a unitary and indivisible National State'—but subsequent legislation has diminished the operative consequences of these sentiments (although this is no substitute for a constitutional amendment). On the whole, it would be unfair to label the Slovak and Romanian governments as nationalising states trying to curtail minority rights or assimilate the Hungarian populations. Indeed, few Hungarians in either state would level such an accusation against their government. The situation, while not perfect, was improving.

Bilateral relations between Hungary and its neighbours were also better than ever. Bridges were being opened, highways were built, trade improved, and cultural exchanges deepened. Hungary supported Romania's NATO membership and the two countries promoted military co-operation. Slovakia and Hungary moved in step towards EU accession, and all three countries supported regional development.

The timing of the introduction of the Status Law was therefore both odd and unfortunate. Just as neighbouring states were improving minority

protection in line with European standards and Hungary's bilateral relations with its neighbours were better than they had been in a decade, the Status Law spanner was thrown into the works.

II. Hungary as Kin-state

Hungary is an obvious kin-state. Since the Treaty of Trianon (1920), when Hungary lost 60 per cent of its population and 70 per cent of its territory, the Hungarian state has felt cut off from the rest of the Hungarian nation. The constitution of 1989 states that 'the Republic of Hungary bears a sense of responsibility for the fate of Hungarians living outside its borders and shall promote and foster their relations with Hungary'. In 1992, a Government Office for Hungarians Abroad was opened to do something about this and in 1999 a Hungarian Standing Conference was created to forge a political bond between Hungary and Hungarians abroad. Since 1990, Hungarian Governments have, to varying degrees, spoken up for their kin. Prime Minister József Antall declared himself the prime minister ('in spirit') of 15 million Hungarians. This mantle was taken over by Viktor Orbán, even after he was no longer prime minister. The Socialist Party, while less overtly nationalistic, realizes that it cannot appear to neglect Hungarians abroad or ignore those at home who seek to support them.

The Status Law was a useful vehicle for FIDESZ to strengthen its credentials as the patriotic Hungarian party. Following soon after nationalistic millennium celebrations in 2000, the Status Law was described by FIDESZ officials like State Secretary Zsolt Németh as 'righting an 80 year wrong'. Hungarian certificates issued to potential beneficiaries in early 2002 looked like Hungarian passports with the Crown of St. Stephen on the cover. For Hungarians abroad, especially older ones, the certificate was cherished as a symbolic attachment to Hungary. To neighbouring states it looked like a passport of Greater Hungary.

In Hungary's polarized political environment, so evenly split between FIDESZ and the Socialists, the Status Law was regarded by FIDESZ as a way of shoring up support on the right wing (taking votes from Party of Hungarian Justice and Life [MIÉP]). The law, at least in its original draft, would discourage brain drain from Hungarian communities in

neighbouring states, tap into popular sentiments at home and abroad for uniting the Hungarian nation (at least culturally), and provide a pool of cheap, mobile, and Hungarian-speaking labour to drive economic growth. It was hard to vote against such a law, unless one wanted to risk being considered ‘un-Hungarian’ (a charge levelled against the Alliance of Free Democrats [SZDSZ], the only party that did not support the Law).

In looking at Hungary as a kin-state, it is also worth considering the role of the kin-diaspora. The World Federation of Hungarians is an outspoken and active advocate of views like dual citizenship and the Status Law. Its influence on the Hungarian Government (supportive in the case of FIDESZ and critical of the Socialists) added another element to the triadic nexus.

III. The Minorities’ Dilemma

The Status Law put Hungarian minorities in neighbouring states in a bind. On the one hand, they were the ones pushing for some sort of dual citizenship or trans-border, ethnically based affirmative action that would provide them with support from the kin-state. Hungarian communities, with the exception of those in Slovakia and Slovenia, were afraid of being cut off from ‘the mother land’ by the EU’s Schengen curtain. They also wanted tangible assistance from Hungary in areas like education where they felt frustrated by the lack of support from the home state.

Of course, one must be careful about regarding Hungarians abroad as a monolith. The Hungarian Standing Committee is hardly a representative body, nor does it have much of a foundation in international law. Furthermore, many of the small circle of advocates pushing for closer ties with Hungary were not in the mainstream of parties like the SMK and DAHR. Indeed, the debate over the Status Law exposed rifts within the Hungarian communities in Hungary and Slovakia.

For leaders like Béla Bugár (SMK) and Béla Markó (DAHR), the Status Law was a lose-lose situation. On the one hand, it generated a certain expectation among Hungarians abroad that some sort of benefits were forthcoming. If this promise could not be delivered, some core voters (and, more significantly the internal opposition like Miklós Duray in Slovakia and László Tőkés in Romania) would add this failure to the

catalogue of policies that their leaders had failed to deliver on, like territorial autonomy and state-funded universities.

On the other hand, implementation of the Status Law would harm the otherwise good relations with government colleagues—coalition partners in Slovakia and the PSD in Romania. Hungarian parties, working effectively to have their issues raised and addressed, arguing for rights on the basis of citizenship and equal opportunity, and criticising majoritarian nationalising tendencies now found themselves being portrayed as manifesting the very image that nationalists in the majority population had long been ranting about: Hungarians pushing an exclusively ethnic agenda, strengthening bonds with Budapest, advocating ethnically based discrimination, and demonstrating disloyalty to the state in which they are citizens.

IV. Dead Ends

Almost all parties in the nexus were in an awkward position with little room for manoeuvre. Once the law was proposed to Parliament in Hungary, the Socialists could not afford to vote against it. Once it was adopted, mainstream representatives of Hungarians abroad could not afford to speak out against it. Although the international community criticized the law, FIDESZ felt that amending the law would be politically suicidal to its re-election hopes. Once the law was criticized by majority groups within the home states, the mainstream Hungarian leaders could not afford to compromise the interests of their community or distance themselves from Budapest. But they could also not afford to be tarred with the same brush as the extremists. Governments of the host states could not afford to damage their relations with Hungary or with their Hungarian coalition partners (because of their reliance on Hungarian parties to stay in power and the need for Hungary's support for NATO [Romania] and EU [Slovakia] accession), but they did not want to appear weak in defending the majority's interests, especially as populists were scoring points on their flanks. When in 2002 the Socialists came to power in Hungary with only a slim majority, they could not appear to back down on something that they had voted for or to sell out ('again' in the eyes of FIDESZ) to pressure from the European community. Taking all of this

into account, some way had to be found to untangle the knots without damaging the bonds of the nexus.

V. A Fourth Dimension

So far, this paper—following Brubaker’s model—has looked at the triadic nexus between Hungary, Hungarians abroad, and the neighbouring states of Romania and Slovakia. But national minority issues are no longer confined to domestic politics or bilateral relations. The triadic nexus must also consider a fourth dimension, namely the international community and international law.

Ideally, states should create an environment that protects and promotes the rights of persons belonging to national minorities. That is their obligation, at least in the OSCE area. A state with a titular majority population may have an interest in persons of the same ethnicity living abroad. This is natural, and foreseen in, for example, Article 18 of the Council of Europe Framework Convention for the Protection of National Minorities, which encourages Parties to conclude, where necessary, bilateral and multilateral agreements with other states, in particular neighbouring states, in order to ensure the protection of persons belonging to the national minority. But, as the OSCE High Commissioner on National Minorities, Rolf Ekéus, noted in a statement issued on 26 October 2001 entitled ‘Sovereignty, Responsibility and National Minorities’, ‘this does not entitle or imply, in any way, a right under international law to exercise jurisdiction over these persons. At the same time it does not preclude a state from granting certain preferences within its jurisdiction, on a non-discriminatory basis. Nor does it preclude persons belonging to a national minority from maintaining unimpeded contacts across frontiers with citizens of other states with whom they share common ethnic or national origins’. In short, one may have an interest in one’s kin abroad and be interested in offering them support, but the question is how. After all, as Ekéus pointed out, ‘it is a basic principle of international law that the state can act only within its jurisdiction which extends to its territory and citizenry’. It is up to the state where the minorities live to protect and promote the individuals and groups

concerned. This can be augmented by bilateral arrangements within the context of multilateral norms.¹⁴

So the triadic nexus should be considered within the parameters of what is prescribed by international law. Otherwise, we would be plunged into an anarchic system where national self-determination could drive ethnically motivated hegemony, assimilation would crush minorities, and secession would rip the fabric of multi-ethnic states. These are the very nationalistic excesses that the international community has sought to prevent since the Second World War.

At stake in this case were some fundamental tenets of international law. Not only were Romania and Slovakia concerned about external violation of their sovereignty and interference in their jurisdiction, they felt that the Hungarian Government's behaviour was in bad faith and that the Status Law encouraged ethnic discrimination and undercut the spirit of bilateral treaties that included mutually agreed upon provisions on minority protection. By basing their arguments on international law, Romania and Slovakia were able to strengthen their case and internationalise what would otherwise have been a potentially deadlocked bilateral issue.

In the case of the Status Law, the fourth dimension—inter-governmental institutions—included the Council of Europe, the Organisation for Security and Co-operation in Europe (OSCE), and the European Union. The Council of Europe was involved through the European Commission for Democracy through Law, also known as the Venice Commission, which issued its 'Report on the Preferential Treatment of National Minorities By Their Kin-states' on 22 October 2001. The Council of Europe's Parliamentary Assembly was also involved, through debates and the work of Rapportuer Eric Jürgens, culminating in a report in June 2003. A key player was the OSCE High Commissioner on National Minorities. In addition to his unequivocal statement of October 2001, he played a central role through his recommendations to the Hungarian Government on amending the Law, and ensuring that minority-majority relations in neighbouring states as

¹⁴ Rolf Ekéus, OSCE High Commissioner on National Minorities, 'Sovereignty, Responsibility and National Minorities', statement issued on 26 October 2001, see: <<http://www.osce.org/item/6352.html>>, accessed 18 January 2006.

well as bilateral relations between Hungary and some of its neighbours did not suffer from the rancorous debate.

The crux of the argument put forward by these European institutions was that ‘the possibility of states to adopt unilateral measures on the protection of their kin minorities, irrespective of whether they live in neighbouring or in other countries, is conditional upon the respect of the following principles: a) territorial sovereignty of states; b) *pacta sunt servanda* [treaties must be respected and performed in good faith]; c) friendly relations amongst states, and d) the respect of human rights and fundamental freedoms, in particular the prohibition of discrimination’.¹⁵

The fourth dimension worked in harmony. The EU, through preparing Hungary for accession, provided an incentive for the Hungarian Government to amend the law. The Council of Europe provided the guidelines on how this should be done, and the OSCE High Commissioner on National Minorities was the normative intermediary and mediator who, through his recommendations and shuttle diplomacy, kept the process moving towards its resolution.

VI. Seeking a Solution

Spurred on by European institutions and neighbouring states to amend the law, but attacked by opposition at home and some Hungarians abroad for selling out national interests, Hungary’s Foreign Minister László Kovács was in a tough spot. He knew that in order to satisfy the criticism of European institutions and neighbouring states, the Law would have to be amended. But he needed to save face. His plan therefore was to amend the original Act in line with four points: the original intention of the law would be retained; amendments would require the support of Hungarians abroad; the legitimate concerns of neighbouring states would be addressed; and the Act would be in line with international standards.

Points three and four were considered more or less one and the same. Sensing that Slovakia and Romania would never be completely satisfied,

¹⁵ ‘Report on the Preferential Treatment of National Minorities by Their Kin-state’, adopted by the European Commission for Democracy through Law (Venice Commission) at its 48th Plenary Meeting, Venice, 19–20 October 2001, CDL-INF (2001) 19. <[http://www.venice.coe.int/docs/2001/CDL-INF\(2001\)019-e.asp](http://www.venice.coe.int/docs/2001/CDL-INF(2001)019-e.asp)>, accessed 23 January 2006.

the aim was to appease the High Commissioner on National Minorities, delay the proceedings of the Parliamentary Assembly of the Council of Europe, take into account the main points raised by the Venice Commission, and get a green light from the European Union. If European institutions would not object to the proposed amendments than any further criticism from neighbouring states would ring hollow. Then bilateral deals could be struck on how to implement the law.

As to maintaining the original intention of the law, this was vague enough that if one could show some sort of tangible support for Hungarian language and culture and retain some benefits for Hungarians from neighbouring states visiting Hungary, one could argue that the amended law still strengthened the link between the State of Hungary and Hungarians abroad. The price was the criticism of the architects of the law and the World Federation of Hungarians, who felt that any meaningful elements had been ripped out of the law by the Socialists and European pressure. But there was no way for the Government to silence such critics, and there was not point in trying.

A harder sell was to have the support of Hungarians abroad. Because this was the group that started the whole issue in the first place, their at least tacit understanding would have to be secured for any significant changes. Here the Socialist Government tried to capitalize on the fact that the most influential Hungarian leaders in neighbouring states were not big fans of FIDESZ as the latter had supported their more outspoken rivals. In the end, most representatives of Hungarians abroad wanted a way out of the dilemma and were willing to go along with the proposals that were made to them through the Hungarian Standing Committee.

VII. Lessons Learned

What does all of this tell us about the triadic nexus? Firstly, Brubaker's theoretical framework is quite convenient for explaining a situation like the Status Law. What makes this case particularly interesting is that there were a series of triadic nexi operating simultaneously, all of which had an impact on each other: Budapest's relations with Bratislava, relations within the Slovak Government and Parliament, relations between the SMK and Budapest; relations between Budapest and Bucharest, relations between the DAHR and PSD, relations between the DAHR and Budapest;

relations between Budapest and Belgrade, relations between Budapest and Hungarians in Vojvodina and so on. All players were watching and sometimes colluding with each other. One has to add to this equation the internal relations between moderates and radicals within the Hungarian communities, and their respective relations with different political forces in Hungary. All of these relationships changed depending on reactions to the latest draft of the law, as well as elections. This bears out Brubaker's point about the instability generated by the shifting nature of the nexus.

A second major lesson is that any analysis of a triadic nexus involving kin-states, home states and national minorities needs to take into account the role of the international community. That role may be relatively minor, as in the case of Italy's relations with Austria over South Tyrol or Germany's relations with Denmark over Schleswig-Holstein. Or it may be considerable, as in this case, the situation in Latvia, or the fate of Cyprus. The international community is not a player, so one should not amend Brubaker's theory to speak of a quadratic nexus. Rather, it provides a framework, standards and potential mediation in cases when the actors have exhausted domestic and bilateral means of resolving their differences. This should not be under-valued.

At the same time, one hopes that the international community is now wiser about what to do about such situations in the future. As Brigid Fowler points out, on the Status Law issue 'Europe' (whether the EU, OSCE or the Council of Europe) was appealed to for adjudication, but "Europe" finds that its own principles on the issue are far from clear'.¹⁶ The Venice Commission report, the High Commissioner's recommendations, and the PACE report should provide guidance for the future. Europe needs clarity on who deals with these issues in the future and how. There are still kin-state issues that involve EU states (relations between Austria and Italy, Austria and Slovenia, Germany and Denmark), cases where EU members consider themselves kin-states of non-EU countries (Hungary in relation to Hungarians in Romania, Serbia and

¹⁶ Brigid Fowler, 'Fuzzing Citizenship, Nationalising Political Space: A Framework For Interpreting The Hungarian "Status Law" as a New Form of Kin-state Policy in Central and Eastern Europe', ESRC working paper 40/02, p. 9 <<http://www.one-europe.ac.uk/pdf/w40fowler.pdf>>, accessed 18 January 2006. See also: Giorgio Malinverni, 'La Protection Des Minorities Nationales Par Leur Etat-Parent' in European Commission for Democracy through Law, *The Protection of National Minorities by Their Kin-state* (Science and Technique of Democracy no. 32; Strasbourg, 2002), pp. 313–317.

Montenegro and Ukraine, Greece in relation to Cyprus) as well as cases where minorities in the EU have a powerful kin-state (Russian minorities in Latvia and Estonia), not to mention kinship ties that make life difficult in the EU's new neighbourhood (Romania's relations with Moldova, Serbia's relations to Serb communities in Croatia and Bosnia, Albanian kinship in the triangle of Kosovo, Macedonia and Albania).

The Act on Hungarians Living in Neighbouring States, even in its amended form, creates a precedent which may be followed. Romania, of all countries, has said that it is now considering enacting similar legislation! Speaking to representatives of the Romanian diaspora on 9 August 2003, Prime Minister Năstase (arch critic of the Status Law for two years) said 'whether we like it or not, the most efficient, the most advanced, and the most dynamic model is the Hungarian model'. The consequences of this decision on Romania's relations with Vlachs and, particularly, 'kin' in Moldova should be interesting to see.

Another lesson of the Status Law is that the triangular relationship does not always conform to the simplistic model of aggrandising kin-state, Trojan Horse minority group, and nationalising state. Self-interest in minority-related issues is seldom based purely on nationalism and kinship. A kin-state may value bilateral relations as much as support for a national minority. National minority representatives may value close, pragmatic relations with a political party from the majority community more than the ideological support of a group in the kin-state. And the government of the home state may not be a nationalising state and may genuinely cherish harmonious inter-ethnic relations and good-neighbourly relations. The triadic nexus should not presuppose a simple arithmetic.

Because the link between national minorities, host states and kin-states is a fact, the challenge is to prevent this relationship from leading to conflicts. One way of de-securitising such situations is to ensure that there is no discrimination on the basis of ethnicity. If one promotes culture to all who are interested (like the Goethe Institute or the British Council) as opposed to only for people of one's kin, then one will avoid discrimination and build wider appreciation for one's cultural heritage.

Another key consideration is transparency and co-operation. There should be no unilateral steps from the kin-state and any initiatives should be properly discussed with all those concerned. This should be feasible in the context of bilateral agreements, and modalities could be worked out in joint commissions and other meetings of experts that include

representatives of the minority concerned. In most cases, at least in Central and Eastern Europe, these frameworks and mechanisms already exist. This is certainly the case in regard to Hungary's relations with Slovakia and Romania, both of which signed bilateral treaties in the mid-1990s that included detailed clauses on minority protection, including the establishment of joint commissions to regularly exchange views on minority issues. The Status Law debate shows what happens when such arrangements are not properly or sufficiently used. Many problems could probably have been avoided if bilateral discussions had been more frequent and meaningful before the Status Law was presented to parliament.

Another lesson is that minorities need to be involved in bilateral discussions that effect them. The minority has the most to gain from outside assistance and the most to lose if it is improperly handled. It understands best its needs and interests, and the possibilities and limitations of fulfilling them in relation to both the kin-state and its own state authorities.

The most important lesson is that states should protect and promote national minorities within their sovereign jurisdiction. This obligation should not only be recalled by governments in reaction to 'interference' from kin-states. If host states did more to protect and promote minorities, the complaints of kin-states would ring hollow. The necessary steps should be taken within multi-ethnic societies to guarantee equality of opportunity, protection of minority rights and languages, and ensure the effective participation of minorities in public life. Otherwise ethnocultural bonds (i.e. kinship) will trump citizenship. If minorities feel that state structures, laws, and institutions are stacked against them and in favour of the titular majority, then they will feel that ethnic ties offer more than a social contract. This will accentuate their sense of ethnic uniqueness and defensiveness vis-à-vis fellow citizens from the majority population. If this leads to closer links with a kin-state, it may strengthen schisms in society even more and generate tendencies of either assimilation or isolation or even separation.

Conversely, good governance can strengthen social cohesion in multi-ethnic states. This is evident in Slovakia and Romania. The SMK in Slovakia and the DAHR in Romania had been successful in promoting the interests of their constituency to the point that they regarded Hungary's intervention as potentially damaging to the gains that had been made.

Political pragmatism trumped ethnicity. The Governments of Slovakia and Romania saw benefits in continuing co-operation with their Hungarian partners domestically and therefore tried to moderate nationalistic rhetoric. Since coming to office, they had done enough to convince the Hungarian parties that there were potential benefits in co-operating further with their political allies rather than leaving the coalition, siding with hard-liners in Budapest, and legitimising radicals within their own camps.

VIII. A Wake-Up Call for Europe

The debate over the Act on Hungarians Living in Neighbouring Countries should be a wake-up call for Europe, particularly for those who thought that EU enlargement would mean the end of nationalism and national minority issues. If part of the European transformation process will be the erosion of borders, and if one accepts that states and nations seldom overlap, then weakening state sovereignty (within a supra-state entity that encourages diversity) may cause some to seek to strengthen national unity. If, in the past, ethnocultural union was hindered by borders and borders are now losing their significance, then, the argument goes, the European Union facilitates national union. Is this indeed the path the EU wants to follow? If, at the same time, borders between EU and non-EU states become stronger, nations that are not only divided by state sovereignty but also by Schengen may seek to make special arrangements (like dual citizenship) to ensure that kin are not left behind. After all, that is how the whole Status Law discussion started in the first place. This could create new challenges and possibilities, and it is worth watching.

In retrospect, we can thank Hungary for bringing to the surface an issue that had always been there, but had not received much attention from legal experts and inter-governmental organisations. We are now better aware of the legal framework and the possibilities and limitations of support by kin-states. If handled well, bilateral co-operation over minority support can be a source of improving the position of minorities and strengthening bilateral co-operation. If handled badly, it can strain inter-ethnic and bilateral relations. These are lessons worth learning because this issue will no doubt recur in the process of European transformation with implications for intra-EU co-operation and relations between EU states and their neighbours.