Introduction

Citizenship in Europe after World War II— the Challenges of Migration and European Integration

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ABSTRACT

The concept of citizenship in Europe after World War II faces two major challenges: migration and European integration. This introduction precedes a group of articles examining debates and law-making processes related to the concept of citizenship in Europe after World War II. The introduction sketches the historical development of citizenship in European representative democracies, taking into account four basic dimensions (access to citizenship, citizenship rights, citizenship duties, and the active content of citizenship) for analyzing changes in the concept of citizenship.

KEYWORDS

citizenship, European integration, law making, parliamentary debates, migration, multilevel system

Citizenship, according to the classical definition of T. H. Marshall,¹ in general refers to descriptions or definitions of the formalized as well as the practical relationship between a political entity (polity) and its members. Therefore, citizenship can also be defined for nondemocracies. But in many ways, citizenship is a key concept both for the theory and the practice of democracy. Citizenship is what defines the demos (both the democratic subject and the sovereign) in a legal and political sense. Citizenship has practical as well as normative implications for shaping and realizing the relationship between citizens and polities. Therefore, the concept of citizenship has been subject to numerous changes, disputes, and transformations over the centuries. In this context, conceptual

1. T. H. Marshall, "Citizenship and Social Class," in *Citizenship and Social Class: And Other Essays* (Cambridge: Cambridge University Press, 1950).

changes or conflicts around citizenship have been a key issue in the democratization of European nation-states.

Modern representative democracies in Europe² have been organized into nation-states and the concept of citizenship has been related, with its dimensions and subconcepts, to the nation-state and different national cultures. In contemporary representative democracies, it is the citizenry that decides upon the parliament and indirectly on the government; it is the citizenry who should engage in deliberation and democratic participation; and it is a condition for a satisfactory representative system that the citizenry possesses the right to express their dissent. Hence, concepts of citizenship not only include definitions of who belongs to the demos or, in other words, the conditions for access or the criteria of belonging to a state or a polity, which in nation-states are usually fixed by nationality laws; citizenship concepts also aim at what the demos does. Citizenship laws set the formal conditions for the political activity of a citizen—a citizen can vote, discuss, demonstrate, or become a member of a political party. Finally, concepts of citizenship in most cases suggest the conditions linked to the citizen's adherence to the demos, namely, citizenship duties.

While European nation-states developed into representative democracies over the last centuries, citizenship development was driven and/or accompanied by political struggles, which concerned the interpretation of the concept of citizenship and its respective practice. There are also differences in the conceptualization of citizenship between languages and political cultures. For example, the difference between French *citoyen* and *bourgeois* was left ambivalent; while in German, *Bürger*, or more specifically *Stadtbürger* and *Staatsbürger*, with their own histories, identified a link between citizenship and nationality. Some of these conceptual changes have been studied by authors, enriching the field of conceptual history.³ A history of modern citizenship in Europe has also been authored by Andreas Fahrmeir.⁴ In addition, the devel-

2. This is obviously a general statement that describes an overall tendency. We cannot discuss the differences between nation-building processes here, or the differences between the countries on different sides of the Iron Curtain.

3. See, for example, Reinhart Koselleck and Klaus Schreiner, eds., *Bürgerschaft: Rezeption und Innovation der Begrifflichkeit vom Hohen Mittelalter bis ins 19. Jahrhundert* [Citizenship: Reception and innovation of a concept from the Middle Ages to the 19th century] (Stuttgart: Klett-Cotta, 1994); Reinhart Koselleck, "Drei bürgerliche Welten: Zur vergleichenden Semantik der bürgerlichen Gesellschaft in Deutschland, Frankreich und England" [The three worlds of citizenship: On the comparative semantics of the bourgeois society in Germany, France and England], in *Begriffsgeschichten: Studien zur Semantik und Pragmatik der politischen und sozialen Sprache* [Futures past: On the semantics of historical times], 1st ed. (Frankfurt am Main: Suhrkamp, 2006), 402–463; Quentin Skinner, "Two Concepts of Citizenship," *Tijdschrift voor Filosofie* 55 (1993): 403–419.

4. Andreas Fahrmeir, *Citizenship: The Rise and Fall of a Modern Concept* (New Haven, CT: Yale University Press, 2008).

opment of citizenship as a legal and political institution has been discussed by Rogers Brubaker, Christian Joppke, Yasemin Soysal, and Gerard Delanty, to name only a few.⁵

Most of the decisive conflicts around concepts of citizenship in the development of modern representative democracies revolved around questions of inclusion and exclusion and the extension of citizenship rights, which in Western Europe have been related to distinct rules for access. These rules regulate how people gain access to a nation-state according to the various nationality laws. The conceptualizations behind those nationality laws lie on a spectrum ranging from *jus sanguinis* (the right of blood), which accords access to children of nationals of the respective state and is hence conceptualized around an ethnic concept of nationality, to *jus soli* (the right of the soil), which accords nationality to children born on the territory of the state and is related to a political concept of nationality. Most national citizenship laws represent a combination of these principles. In any case, the question of how to access a certain citizenship status, or part of it, and the conditions that can or should be related to it, has been subject to conceptual struggles in most representative democracies over the past few decades.

In particular, the legal exclusion of certain groups of people from full citizenship status, like those considered unable to exercise their political right to vote independently of their masters, such as servants, as well as those without means to support themselves, has been characteristic of citizenship politics. Until the twentieth century, exclusion from full citizenship status typically concerned women: women's right to vote in some of today's European Union (EU) member states was only introduced after World War II.

Accordingly, in the developing representative democracies of the last centuries, key conflicts revolved around the inclusion of women and foreigners into a formerly male-oriented concept of citizenship that was related to different ideas of a nation. Many of those conflicts culminated in debates over voting rights.⁶

After World War II, nation-state-related concepts of citizenship in Western Europe have been challenged again. The two main factors that are at work

5. Rogers Brubaker, *Citizenship and Nationhood in France and Germany* (Cambridge, MA: Harvard University Press, 1992); Christian Joppke, *Citizenship and Immigration* (Cambridge, MA: Polity Press, 2010); Yasemin Soysal, *The Limits of Citizenship: Migrants and Postnational Membership in Europe* (Chicago: University of Chicago Press, 1994); Gerard Delanty, *Citizenship in a Global Age: Society, Culture, Politics* (Buckingham, UK: Open University Press, 2000).

6. Quentin Skinner, "Rethinking Political Liberty," *History Workshop Journal* 61, no. 1 (2006): 156–170; Pierre Rosanvallon, *Le Sacré du Citoyen* [The sacred citizen] (Paris: Gallimard, 1992), 130–144, 393–412; Claudia Wiesner, "Women's Partial Citizenship," in *The Ashgate Research Companion to the Politics of Democratization in Europe*, Kari Palonen, Tuija Pulkkinen, and José Maria Rosales, eds. (London: Ashgate, 2008), 235–250.

here are *migration*, which questions the idea of a nation-related citizenry, and *Europeanization*, which changes the role of nation-states and national concepts of citizenship. The implementation of EU citizenship laws in the member states, moreover, led to conflicts in which different histories and political cultures confronted each other and EU law conflicted with national traditions and legal practices. Last, but not least, supranational institutions and norms, in addition to the Europeanization of citizenship, are other factors that question the sole authority of nation-state institutions and rules.

Here we will concentrate on conceptual changes and political struggles around citizenship related to the challenges of Europeanization, as well as both migration (in the sense of people moving to other countries) and immigration (in the sense of people moving into the country in question), after World War II.

National Citizenship in Western Europe: Conceptual Changes and Challenges after World War II

If the image of a more or less homogenous national citizenry, even in the nation-states, has never been entirely accurate, the mass migration processes of the last decades openly challenged the notion. While the poorer, southern countries face a considerable number of emigrants leaving them, a large number of immigrants enter from non-European countries into the rich western and northern states. Legal as well as illegal immigrants and refugees settle, or try to do so, and participate in economic life. In all western and northern states, a considerable percentage of the population is of migrant origin and consequently often not in possession of the respective nationality. While legal immigrants and refugees can later become national citizens, and/or participate in a country's political life, this is not the case for illegal immigrants. European integration complicates this setting by enhancing migration (or "mobility") from one EU state into another on a short-term and mid-term basis. EU Europeans that temporarily move to another EU state profit from an EU citizen status. Migration effects thus indicate that Hannah Arendt's statement is still true: the right to have rights is linked to a large degree, even if no longer exclusively, to being a citizen of the "right" state, or the right political entity, as in the EU.⁷

The role of the EU underlines that there are new political levels above the nation-state in the game. Even if the "right to have rights" is still heavily tied to the reality of having a "correct nationality", the situation has altered since World War II due to the creation of supranational institutions and norms. The

7. Hannah Arendt, *Elemente und Ursprünge totaler Herrschaft*, 6th ed. (Munich: Piper, 1986), 601–606; in English, Hannah Arendt, *The Origins of Totalitarianism*, 7th ed. (Cleveland and New York: Meridian Books, 1962), 290–295.

institutionalization of human rights represents an important step in the direction of supranational rights. The different human rights conventions, on the United Nations (UN) level or on the European level, at a minimum outlined a legal framework of rights for all human beings, irrespective of their nationality. While this achievement cannot be estimated highly enough, it must be said that the constitutionalization of human rights and the compliance with international human rights norms differ greatly throughout the world, and it may be that in some cases they are not worth the paper the conventions are printed on, even if they can theoretically be claimed before international courts.

The EU, as has been said, is another decisive level nowadays. It led to a Europeanization of citizenship. First, in the European Economic Community (EEC), founded in 1957, individual rights were instituted that were linked to the market participation of citizens of the member states. Second, with the Maastricht treaty an EU-related concept of citizenship, “Citizenship of the Union”, was formulated, which includes core political rights and also rights of free movement. In short, citizenship rights and duties as well as active citizenship have become parts of a multilevel system, consisting of the EU, its member states, and their subunits.

This multilevel system brought about decisive changes for nation-state-related concepts of citizenship, both on a *theoretical* and on a *practical-political* level. In most national citizenship concepts, a person possessing the respective nationality profited from the ensuing national citizenship rights and shouldered the national duties, and eventually actively participated in the nation-state’s political life. In contrast, in the new multilevel European citizenship system, a person possessing the nationality of a member state profits both from rights on a national and an EU level, and he or she can be politically active on all these levels, while taking on duties is still limited to the national level. The multilevel system thus also brought about a division of citizenship. While, for example, the economic part of a person’s existence is very much regulated on the EU level, the social and political elements stay mostly on the national level.⁸

Thus, European integration created a new level of citizenship beyond the nation-state. Citizenship rights are now defined on the EU level and via the EU as well. While the member states may still define their nationalities in exclusivity, this no longer goes for citizenship rights: there are many rights that EU member states may no longer limit to their citizens alone, but must accord to every EU citizen on their territory. EU-related rights, moreover, can be claimed before the European Court of Justice, and they are also supervised by the European Commission. Member states not applying them correctly face

8. Claudia Wiesner, *Bürgerschaft und Demokratie in der EU* [Citizenship and democracy in the EU] (Münster: LIT, 2007).

sanctions. These changes, as has been said, deal with both *theories of citizenship* and their *practical-political implications*, and thus also take into account the *interrelations between conceptualization and reality*. Two of the articles in this group will discuss changes related to Union Citizenship and Citizenship in the EU using different examples.

The Analysis of Conceptual and Political Changes and Challenges of Citizenship Concepts: Interrelations and Dimensions

The political, institutional, and sociohistorical developments described above have affected concepts of citizenship in Europe since the end of World War II. The related processes show several interrelations between political, socio-historical, and legal changes. Reinhart Koselleck has suggested a useful typology of interrelations between institutional and social changes and conceptual changes,⁹ which helps to analyze and clarify these interrelations.

a) Institutional and social change can precede conceptual change

The political, social, and institutional changes related to migration and Europeanization change the actual roles, contents, and practices of citizenship.

b) Conceptual change can also bring about institutional and social change

Conceptual innovations of EU institutions and national politicians (acting both on an EU level and on a national level) coin new terms and concepts or reinterpret established ones (like “Citizenship of the Union”). Such developments are often pushed forward by “innovating ideologists,”¹⁰ trying to either create new meanings for a given reality or expected future developments.¹¹

One of the important platforms for such conceptual innovations is the law-making process, which will be considered by the following group of articles. In a representative political system the wording of the final draft of a law is an outcome of a political struggle, which has an impact on the interpretation and meaning of concepts. Furthermore, the final wording of a legislative act has a direct effect on the legal, political, and social practices from that point forward. The following articles thus consider legis-

9. Reinhart Koselleck, “Die Geschichte der Begriffe und Begriffe der Geschichte,” in *Begriffsgeschichten*, 62.

10. Quentin Skinner, “The Idea of a Cultural Lexicon,” in *Visions of Politics*, vol. 1, *Regarding Method* (Cambridge: Cambridge University Press, 2002), 148.

11. Reinhart Koselleck, “The Temporalisation of Concepts,” *Redescriptions (Finnish Yearbook of Political Thought)* 1, no. 1 (1997): 16–24.

lative processes in constellations such as debates in parliament, published policy documents, treaties, and legal acts.

c) Contestations of concepts of citizenship and their (re)interpretation

Both types of changes can lead to debate about citizenship and the (re) interpretation of the concept, especially when apparent conflicts emerge around existing political and social situations and/or predominant interpretations in national political cultures.

d) The possibility of institutional and social reality and concepts going in opposite directions

This might occur when innovating ideologists or institutions coin new concepts that are not yet related to reality, or when reality changes and old concepts no longer fit and new concepts are not yet developed.

For analyzing conceptual changes and struggles around citizenship, it is furthermore our suggestion to take into account four dimensions that most national concepts of citizenship cover: *conditions* of access/nationality and their related laws; the legal consequences of citizenship in the sense of a citizen's *rights* and a citizen's *duties*; and the *active content* of citizenship.¹²

Regardless of the special tone of different (national) concepts of citizenship, these four important dimensions can be distinguished independently of the character, shape, or size of a political entity, the political practices implemented, or the presumed practical and/or normative meaning of citizenship. Changes in concepts of citizenship after World War II affect these dimensions in different ways.

Access to and *conditions* for citizenship (in the political practice of Western states or in terms of nationality laws) were a crucial element in the development of representative democracy. The need to define who was a national developed early in the history of Western states due to the necessity of defining who was subject to the developing state and who was not. Today the conditions for citizenship are crucial with regard to the challenges set by migration and European integration.

Rights derived from citizenship have evolved in the course of the development of representative democracy. T. H. Marshall's classical distinction differentiates between three different types of rights: freedom rights, political rights such as the right to elect and to be elected, and—historically seen as the youngest—social rights.¹³ With this distinction, Marshall describes both the historical course of the development of citizenship status in national states and

12. See Will Kymlicka, "Citizenship Theory," in *Contemporary Political Philosophy* (Oxford: Oxford University Press, 2002), 284–326; B. S. Turner, "Citizenship Studies: A General Theory," *Citizenship Studies* 1 (1997): 5–18.

13. Marshall, "Citizenship and Social Class," 10–27.

the different types of citizenship rights derived from this development. Even if Marshall's categories have since been subject to justified criticism—mainly because they rely on a reality of classical gender and ethnic divisions in the 1940s Western nation-states—their core idea is useful.

In addition to Marshall, we suggest complementing his list with a “right to protection through the state” (internal security), which can be distinguished as the oldest citizenship right (interestingly, not listed by Marshall), and cultural rights, which were not yet debated in Marshall's times.

An aspect classically associated with citizenship in representative democracies is a citizen's *duties*: to go to school, to do military service (a duty in most representative democracies for male citizens), to pay taxes (decisive for modern welfare systems), to obey the state's monopoly on violence. Both schools and military service have been especially decisive in the development of national democracies by undertaking to form future loyal citizens of a nation-state. The aspect of duties is challenged again by migration and supranationalization of citizenship.

Finally, citizenship has (or should have) *active content* that includes participation and representation. For instance, active and passive participation in elections, political activity, and public discourse are a few examples of active content in representative democracy. Today, not only new types of participation develop, but also political levels of participation have changed with supranationalization, and the access to participation possibilities has diversified with migration.

We would like to term the total of these four parts the *citizenship acquis*¹⁴ *of the twentieth century*, in the sense of the whole of legal and political traditions and practices of citizenship that have developed in this period. They describe the key dimensions most national concepts of citizenship contain. This citizenship *acquis* is the result of a historical development, and it is now the formal judicial standard and reality in most representative democracies, at least in the West.

It should be emphasized that the focus of this group of articles is on contemporary European concepts of citizenship, but they are part of and related to a broader catalog of conceptualizations of access to citizenship (who obtains full citizenship status subject to which conditions?), citizenship rights (who may vote, be elected, protest, and get access to social services?), duties (who should do military service?), and active citizenship (who votes, is elected, and protests?). Hence, political struggles around concepts of citizenship can, in our reading, be more comprehensively analyzed when the four dimensions described above are taken into account.

14. We use the term *acquis* to express the sum of achievements in the development of citizenship we have sketched.

Four Approaches to Citizenship Debates since World War II

The following group of articles will analyze conceptual and political changes and struggles in the period after World War II regarding challenges to nation-state concepts of citizenship and to the *citizenship acquis of the twentieth century* with its four dimensions. The analysis of the primary sources used shows that citizenship is regulated, reshaped, constructed, politicized, and conceptualized with regard to these dimensions.

We will concentrate on challenges related to *migration* and *Europeanization*, and on conceptual changes and debates that are related to law making and legal documents. Moreover, the articles concentrate mainly on the dimensions of *access* to citizenship and citizenship *rights*. The *active content* of citizenship is referred to in the discussion of the EU programs and policies on citizenship, in the sense of participation and identity. *Duties*, however, are less present in the material used in the articles, as they are only implied as a less evident dimension in the debates.

The articles will discuss conceptual challenges and debates related to migration and the questions of access and the “right to have rights”, as well as conceptual and political changes related to the introduction of European citizenship and the changes it brought about, mainly since the 1990s. Temporally, the contexts extend over a period of time from the 1940s to 2007 and represent cases of conceptual change through debates, negotiations, and voting on legal texts, as well as on the implementation of new laws and the related conceptual conflicts. The articles are all based on primary sources such as legal documents and/or parliamentary protocols, but analyze different cases and materials.

The first two articles of the group tackle challenges to citizenship brought about by migration. They concentrate on questions of access to rights and access to nationality. Access to rights is analyzed by Hanna-Mari Kivistö via the immediate postwar debate on the right to asylum in the Parlamentarischer Rat, the parliamentary council that prepared the German Basic Law, the *Grundgesetz*. This debate centers around conditions of access for noncitizens: asylum seekers who came to the newly established Federal Republic of Germany. In the second article, by Anna Björk, access to nationality and hence citizenship status takes a more contemporary view. It analyzes German citizenship politics with regard to naturalization and the conditions for accessing citizenship in the late 1990s and early 2000s. Both articles use Germany as a case study and utilize parliamentary sources (parliamentary debates concerning and preparing individual laws). This view combines two aspects of parliamentary democracy, that is, the law-making process on the one hand and the debate on the other. Both emphasize the role of parliament as a locus for conceptual innovation, reform, and contestation.

The third and fourth articles take Europeanization as their starting point, discussing how European integration has brought new levels and meanings to the concept of citizenship and has affected the political and social reality in Europe through conceptual innovation. The effects of Europeanization on conceptualizations of citizenship are discussed using a selection of the EU's legal and policy documents, ranging from basic treaties and subsequent bills to supplementary policy documents. Both articles show how the documents are used as tools for introducing, implementing, and (re)interpreting concepts, reshaping and employing the idea of citizenship on various levels of policy making. The articles aim at different phenomena, however. The article by Claudia Wiesner discusses the impact of EU law and policy-making on the legal and practical consequences for EU-related citizenship rights and their application. It describes how the creation of EU-related citizenship laws created a logic of its own and led to an ongoing development of law making and law implementation with regard to EU-related citizenship rights. The article by Katja Mäkinen takes another aspect of the citizenship-related EU documents into account: the way they attribute certain meanings to the EU and try to construct a concept of EU citizenship that bears many similarities to the ones in nation-states.