OXFORD INTERNATIONAL REVIEW

THE DECLINE OF ASYLUM

CITIZENSHIP, MIGRATION AND STATELESSNESS IN CONTEMPORARY EUROPE

Special Issue

FROM THE EDITORS

Migration, asylum and statelessness are the focus of this issue of the *Oxford International Review*. By addressing the theoretical foundations of citizenship and nationhood, the relationship between domestic policy and European harmonisation, and the absence of ideological support for refugees in the post-Cold War West, the articles clarify our understanding of both the decline of, and the pressing need for, asylum in contemporary Europe.

BARBARA HARRELL-BOND begins the issue with a history of asylum policy, and emphasises the extent to which the relative liberality of the early post-war years depended upon ideological opposition to communism. ROSEMARY BYRNE analyses the harmonisation process in the EU and focuses on a disturbing cross-European trend: the tendency of harmonisation to reduce standards to the lowest common level. JENS VEDSTED-HANSEN shares Byrne's scepticism of European harmonisation and detects a similar trend in Scandinavia. These comparative pieces are followed by three national studies: WOLFGANG HERDT discusses recent restrictions in Germany, which was a post-war haven for refugees, while MARY DINES and RANDALL HANSEN examine, respectively, asylum and nationality law in the United Kingdom. These empirical studies are complemented by two theoretical pieces. Exploring citizenship as a historically contingent concept, ANTJE WIENER makes a case for granting European citizenship to permanent residents of the EU. JENNIFER JACKSON PREECE draws our attention of the centrality of 'sub-state nations' to the study of international relations.

We are pleased to include two pieces on the Commonwealth of Independent States, which many viewed as a source of massive numbers of refugees. Although a mass exodus did not occur, migration issues are central to the post-communist politics of the CIS. EFTIHIA VOUTIRA discusses the position of migrants in the CIS, and pays particular attention the immensely complex issue of post-Soviet citizenship in the CIS, and ARTHUR C. HELTON considers the uncertain response of the international community, in the form of an intergovernmental conference, to migration in the CIS. Despite initial hopes, the conference ended in disappointment.

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RETHINKING CITIZENSHIP: THE QUEST FOR PLACE-ORIENTED PARTICIPATION IN THE EU

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When Citizenship of the Union was established by the Maastricht Treaty (Article 8, EC Treaty)[2] it led to many reactions, ranging from legal scholars to progressive non-governmental organisations (NGOs). Most agree that this citizenship Article contains substantial gaps. From that shared observation, however, two different paths of action seem to be evolving. On the one hand, observers examine Union citizenship according to what it is, that is they compare Union citizenship to known types of formally established national citizenship. This perspective focuses on the limitations of Union citizenship as a legal concept.[3] On the other hand, Union citizenship is discussed as a 'developing concept'. For example, demands, requests and policy proposals forwarded by a number of NGOs, interest groups and social movements aim to change the citizenship article towards more place-oriented citizenship rights.[4]

These policy-oriented debates seem to be mirrored in an emerging distinction between 'minimalist' and 'dynamic' approaches to European citizenship in the realm of academic studies. Whereas the minimalists pursue a formal approach focusing on the evaluation of legal rights in the EU, the dynamic approach evolves from a school in political science which considers new policy options and opportunities and discusses ways of rethinking citizenship.[5] This constructive perspective draws on the observation of political tension which is based on the underlying pattern of exclusion and inclusion of all citizenship policy and politics. Whilst this pattern has been central to both the international state system and the regulation of domestic politics, it has been continuously challenged by excluded groups. Thus it was at the same time a source of regulatory and contentious politics. Constructive approaches to citizenship have tried to address this tension on a conceptual level.[6]

> *Union citizenship will not only lead to debates over the application of the citizenship provisions in the member states, but it will also remain a subject of continuous political tension over rights to participation.*

This article explores the conceptual and political implications of 'third country nationals' (i.e. alien EU residents who are not nationals of an EU member state) within the framework of a dynamic approach.[7] The argument for such an approach rests on two observations. First, the incremental dimension of the EU (expansion in relation to space and time/widening-deepening)[8] is matched by a developing concept of citizenship (i.e. since Article 8e contributes to an evolutional conceptualisation of Union citizenship, it has creative potential).[9] The incremental character of the EU has most prominently been discussed within the context of economic integration which has been found to hinge upon the successful and progressive realisation of the movement of goods, services, capital and people across the internal frontiers of the European Union (EU).[10] Second, and in many ways as an intended consequence of Euro-citizenship policy, an increasing trend of migration and - especially among young people - a growing interest in cross-country work and life-style experiences provoke a challenge to participatory structures and their institutional organisation in the polity. It has an impact on newly emerging institutional links between citizens and the communities amongst which they move to live and work.[11] If both observations are valid, then Union citizenship will not only lead to debates over the application of the citizenship provisions in the member states,[12] but it will also remain a subject of continuous political tension over Euro-citizens' and third country nationals' rights to political participation. It implies a political problem requiring a policy solution.

In order to address this problem, this article suggests drawing on a dynamic approach to European citizenship.[13] I argue that the tensions within citizenship, their origins and their potential solutions are best understood once we base our inquiry on an approach to citizenship as

a 'practice'.[14] The article summarises this approach and then moves on to briefly show how citizenship practice in a specific historical context may contribute to rethinking citizenship as a concept which allows for an institutional innovation towards granting political participatory rights to third country nationals based on residency. The article is divided into two sections. The first section briefly defines citizenship practice. The second section applies the concept of citizenship practice - as rights, access and belonging - to the EU and examines how third country nationals' demands for political participation may be addressed on a conceptual level.

Citizenship Practice: Rights Access Belonging

In the broadest sense, citizenship defines a relation between the individual and the political community. It concerns the entitlement to belong to a political community, the latter having the right and the duty to represent community interests as a sovereign *vis-à-vis* other communities and *vis-à-vis* the citizens. This model of a relationship between two entities, namely the individual subject or citizen on one side, and the representative of a sovereign entity (Queen/estate/nation-state) on the other, has provided modern history with a basic pattern of citizenship.[15] It follows that at least three elements need to be considered in the conceptualisation of citizenship. These are the individual, the nation-state/community and the relationship between the two.[16]

Since any study of citizenship needs to refer to these three elements in one way or other, they may be termed the three constitutive elements of citizenship. Whereas the first two elements, namely the citizen and the nation-state/community, have been stressed by contractarian approaches to citizenship in particular, so far the third - relational - element has not received much attention. It has moreover been observed that citizenship theory does not contain tools for scrutinising citizenship as a political process or as a practice. Indeed, as Charles Tilly notes, '[n]o standard definition of citizenship has yet gained scholarly consensus'.[17] There is also an increasing awareness of the fact that citizenship cannot be dealt with on the basis of formal criteria alone.[18] Thus, and despite

an acknowledgement of this relation as crucial to the process of modern state-making, the missing link between the citizen and the state remains an unsolved problem for many of those who study citizenship. I theorise this link by developing the concept of 'citizenship practice', understood as the action that contributes to the establishment of citizenship rights, access and belonging in a community. Such practice implies both contentious struggle about interests among social forces and policy making within the institutions of the polity.[19]

It is important to recognise that citizenship is not a static concept. It comprises a dynamic aspect based on the interplay of its constitutive elements over time and space, which contributes historically derived meaning to the concept.

While it is central to define these constitutive elements of citizenship, it is as important to recognise the fact that citizenship is not a static concept. It comprises a dynamic aspect based on the interplay of its constitutive elements over time and space, which contributes historically derived meaning to the concept. The character of all three constitutive elements has changed over time: (1) the national state/community has changed with the setting of state institutions; (2) As struggles over citizenship rights have been successfully carried out, new citizens have been included while others were excluded; and (3) political, economic, and social change involved the establishment of new institutions and thus often reshaped the institutional channels which influence the relationship between the citizen and the state. Thus, citizenship practice expressed as both political struggles and state policies has contributed to changes in political organisation within and among communities. Citizenship practice therefore entails historical variability.

In taking this historical variability seriously, historical studies of citizenship practice reveal three elements of citizenship. The first is rights, the legal relationship between the individual and the nation-state/community.[20] It comprises various types of rights, for example civil, political, and social.[21] The second element of citizenship is access. It comprises information about the conditions under which practice of citizen-community relations occurs. This perspective on citizenship is often understood as access to a political territory, which hinges on mechanisms of political inclusion and exclusion. The concept of citizenship practice, however, is drawn from another notion of

access based on socio-cultural and economic inclusion.[22] Another notion of access based on socio-cultural and economic inclusion and exclusion has been developed by critical feminist and anti-racist work that stresses the exclusive character of political citizenship rights. That is, while rights may have been stipulated, access might be denied because the means necessary for exercising citizenship rights, or the setting of social and political institutions, such as proper education, communication, transportation may not be sufficiently established. The third element concerns belonging to a community. It is composed of, on the one hand, the legal linkages of belonging to a sovereign entity which are currently based on either the law of soil or of blood (*ius solis* and *ius sanguinis* respectively) and ,on the other, of identity-based linkages of belonging to a community which are expressed through a particular identity.[23]

taxes according to territorially based economic activity. More specifically this feeling of belonging depends on a previous process of 'drawing boundaries' around the terrains which are designed for those citizens who belong.[24] That process has been identified as relying on a discourse of 'them' and 'us'. The construction of boundaries within and around (nation-)states is crucial to the process of national identification.[25] As central aspects of citizenship both borders and belonging are social constructions.

However border politics and the politics of belonging often follow different strategic patterns as policies: borders appear as visible or invisible means of inclusion and exclusion. On the one hand, borders are considered with reference to their institutional manifestation in the form of rules of entry to a country (one crosses the border upon entering a country by land, air or sea, one has to pass border posts, shows

Figure 1: Citizenship Practice:

(1) Rights - civil, political and social
(2) Access to: (a) polity and (b) welfare state
(3) Belonging: (a) identity (participation in economic, social and cultural spaces, duty to pay taxes) and
(b) legal: (in/out) nationality

To summarise, a dynamic approach begins with the understanding that the essence of citizenship practice is the tripartite construction of rights, access and belonging. While it is possible to single out these different elements, it is important to keep in mind that they always remain interrelated. The three elements add a process-oriented or dynamic notion of citizenship and are therefore considered as the historical elements of citizenship. They add contextualised meaning to the concept of ideal citizenship, defining citizenship as stipulating rights, providing access, and creating a feeling of belonging and identity. Figure 1 shows the triad based model of citizenship practice.

Since citizens derive certain rights and opportunities of access based on their belonging to a bounded sphere, this model of citizenship practice is also about borders. Moreover, they accomplish the duty of paying

one's passport). On the other hand, they also exist as intangible boundaries, which are specified by a feeling of belonging to a country or, for that matter, a particular group that is defined by racial, gender, ethnic and/or age boundaries. As   numerous studies have stressed, these boundaries often impede full membership even from a position within a community. The need to distinguish between both types of borders is therefore an important premise of dynamic approaches to citizenship. The former type of border is defined with reference to a community within a bounded territory. It is defined by political citizenship rights and/or access to political participation. The latter type of boundary is based on much more subtle mechanisms of inclusion and exclusion that are better understood as a feeling of belonging to a community. This feeling is often based on actual inclusion *via* social or civil rights that have been established as consequences of processes of disclosure such as, for example, the expansion

of social policy creating access to social rights for migrants in many western countries, notwithstanding the ongoing exclusion with regard to political rights.

The boundaries of the political sphere which find material expression, for example in restricted access to participation in elections, are not necessarily congruent with the boundaries of the socio-economic sphere or, for that matter, the cultural sphere. Belonging then takes different forms of expression as it is limited by different types of boundaries. They contribute to the creation of multiple identities of citizens and non-citizens alike as they often cut across territorially defined boundaries.[26] This article maintains that it is the increasing importance of the invisible boundaries within political entities that is crucial for an understanding of the problem of third country nationals in the EU. The following section first summarises main aspects of EU citizenship policy in order to then address the current political requests for place-oriented citizenship.

Fragmented Citizenship Practice in the European Union

Union citizenship needs to be distinguished from national citizenship. Every citizen of the Union enjoys a first circle of nationality rights within a Member State and a second circle of new rights enjoyed in any Member State of the EU.[27] Yet the reference to rights alone does not say enough about the character of this new supranational citizenship. Meehan found for example that European citizenship existed before the actual stipulation of political rights in the Maastricht Treaty.[28] She reconstructs EC (EU) citizenship as a concept by summarising 'the meanings of citizenship over time'. In comparing these with the type of citizenship in the EC she comes to the conclusion, 'that it is not meaningless to speak of European citizenship or, at least, the coexistence of national and European citizenship'.[29]

The story of citizenship practice began in the 1970s during a period when Community politicians voiced the need to develop a European identity. Debates over identity generated the policy objectives of 'special rights' for European

citizens and a 'passport union.' Both aimed at the creation of identity based on a feeling of belonging. The two-fold historical element of belonging was thus part of the developing practice of Euro-citizenship: by developing a special rights policy, citizenship policy addressed the rules of membership (legal ties), and by designing a passport policy to enable Union citizens to carry a common passport across open internal Community borders, it aimed at the creation of a feeling of belonging (identity-based ties).

An increasing public awareness of a 'democratic deficit' placed the question of participation on the community agenda in the 1980s. The demands for greater access to participation both in political and socio-economic terms were renewed in the changed political context of the 1990s.

The next stage of citizenship policy making in the 1980s was framed by a period of Community development which involved the need of an increasing movement of worker-citizens as a basic condition for economic flexibility. This movement contributed to an increasing gap of social and political equality among 'foreigners' and 'nationals'. As the Commission put it

[t]his situation - seemingly incompatible with the idea of European Union - has given rise to two conflicting positions. [One is that] foreign residents are campaigning for voting rights in the municipality or residence since they have the same duties and obligations as national residents. [The other is that] member States are refusing to drop nationality as the essential criterion for granting the right to vote.[30]

An increasingly public awareness of a 'democratic deficit', both in procedural and normative terms, placed the question of participation on the Community agenda. With this conflict between the functional needs of economic integration and normative demands for participation and equality unfolding, proposals for increased political participation were written, a 'passport of uniform design'[31] was created and a 'Community Charter of Fundamental Rights for Workers' was adopted.[32] The demands for greater access to participation both in political and socio-economic terms were renewed in the changed political context of the 1990s. They resulted in the adoption of political citizenship rights with Article 8 EC Treaty, as well as the stipulation of the rights to free movement and residence not only for the employed and their families, but also for other persons, under the condition of economic security and nationality.

Without going into further detail, it is possible to observe that Union citizenship means more than a simple compilation of rights. Instead, the developing practice of European citizenship has been found to generate rights, access and belonging as elements of a specific historically variable character.[33] Thus, once European citizenship practice is studied within a socio-historical framework, it also turns out to be a question of identity. While both types of belonging (legal and identity-based) have been the target of EC/EU policy, it was the question of belonging-as-identity that first mobilised policy makers.

This identity was, however, neither understood as national identity, that is as one that distinguished Community citizens according to nationalities, nor aimed at replacing national identity with a European one. Instead, the citizenship practice analysis suggests that the creation of

identity based on special rights citizenship policy has brought a variety of specialised rights to the fore thus contributing to the emergence of multiple identities within a shared European framework.

This brief insight into the developing practice of Euro-citizenship is based on the observation that the dynamics of citizenship are embedded in the double-layered framework of the economy and polity. They are based both on the successful realisation of the internal market and on questions of democratic participation. The two processes have not, however, developed at the same pace. While non-national EU citizens in one municipality may share in economic, social and cultural activities their rights to political participation are often limited. It is not surprising then, that studies of European citizenship show that the practice of citizenship in the EU is fragmented:

Figure 2: Fragmented Citizenship Practice

(1) Rights to: vote, move, reside, establish, petition, protection
(2) Access to: Euro-polity, welfare provisions
based on participation as (i) residents (ii) migrants
(iii) taxpayers
(3) Belonging: (a) identity (b) legal (i)nationality (ii) *place*

belongingness to the EC/EU emerged according to what individuals did or might aspire to do with reference to economic and political participation. Crossing national borders as economic migrants, waving closed passports at internal Community borders as travellers, exchanging knowledge as scholars and students, voting commonly for the European Parliament and sharing municipal governance as Union citizens were aspects of this process. Indeed, belonging was generated step-by-step and area-by-area. While special rights policy once aimed to create a European identity based on exclusiveness (i.e. rights were special because they were valid for European Community citizens only), the development of citizenship policy in the last twenty years is better characterised as a policy which addresses different groups in the EU/EC. Indeed, it is possible to observe that instead of a European

Union citizens may sometimes vote and stand for election, pay national health insurance, collect pay checks and receive social benefits in a municipality of one member state while they vote and stand for regional and national elections, pay income tax and have the nationality of another member state.[34] Figure 2 shows how the triad of citizenship practice may be applied to explain the developing fragmented practice of Union citizenship.

If we follow the conceptual perspective on citizenship taken in this article, it is possible to understand how the dilemma between political rights and a conception of belonging may create political tension in the EU. The introduction of political rights for Union citizens meant an institutionalisation of an, albeit gradually developing, new conception of belonging (Europeanness) based on

fragmented patterns of participation at different levels and in varying areas of Euro-daily life.[35] Union citizens are now - indirectly *via* their member state institutions of governance - linked to the Euro-polity. However, these new political citizenship rights do not entail the full range of citizenship rights which are otherwise part of liberal democratic constitutions. The minimalists have rightly pointed this out repeatedly. Indeed, 'the de-linking of citizenship rights from todays' nationality (*Staatsangehörigkeit*) in the EU since the entering into force of the Maastricht Treaty' has positive and negative implications. That is, on one hand, those who were previously Euro-foreigners, now enjoy equal (municipal) voting rights as their fellow citizens. On the other, however, it is possible to identify a new type of discrimination among Union citizens and non-Union citizens who live and work somewhere within the EU.[36]

To return to the problem this article set out to address, namely, the reconceptualisation Union citizenship in order to find policy options and opportunities (and/or constraints) for third country nationals which emerge in this new story of citizenship practice. If we turn now to Figure 2 some suggestions are at hand. First, once a place-oriented option as one condition for Union citizenship is considered, Union citizenship, including the right to vote and stand in municipal elections and the right to cross internal community borders, could become accessible to third country nationals without touching the often politically sensitive issue of dual (national) citizenship.[37] This perspective is shared by the European Parliament and a whole range of citizens' groups. Yet, the member states' concerns about a possible harmonisation of asylum and immigration policies have so far prevented this expansion of Union citizenship rights towards third country nationals.[38] If we share the assumption of liberal democratic principles as the basic agreement for the organisation of a polity, and if the globalisation of markets remains an issue, then a concept of citizenship which grants political rights according to nationality and not on the basis of place-oriented economic and social participatory factors will remain a potential source of political tension.

The establishment of Union citizenship as an institution within the Euro-polity represents a first step toward addressing this tension. The dilemma of political 'closure' has been identified and dealt with at a European level;[39] new political rights for EU nationals who lived in other member states were stipulated. While the citizenship article clearly improves the terms of political participation for citizens of the Union, however, it also contributes to a relative decline in political status for EU residents who are not nationals of any EU member state. This creates an odd and potentially unstable situation. Following the enactment of the Maastricht Treaty in 1993 these individuals, despite shared participation in social, cultural and economic

spaces and a long experience of employment and residence, were turned overnight into quasi 'third country nationals'. They enjoy fewer political rights in their home towns than EU nationals from other member states, who now enjoy the right to vote and stand for municipal elections. So long as political citizenship rights are granted on the basis of nationality, such dilemmas of inclusion and exclusion (and the resulting tension) will continue. To address this tension this article suggested a reconceptualisation of citizenship towards a place-oriented definition of political citizenship rights in the European Union.

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2 The Maastricht Treaty was signed by the member states in Maastrict in February 1991; it entered into force in November 1993.

3 Kovar and Simon characterise the perspective well when claiming that Union citizenship needs to be studied outside a 'passionately' led political debate and therefore suggest that only legal studies are fit to capture the new character. See: Robert Kovar and Denys Simon, 'La Citoyenneté Européenne', CDE, (1994), p. 288). For the predominantly legal approach see among others Siofra O'Leary, 'The Relationship Between Community Citizenship and the Protection of Fundamental Rights in Community Law', *Common Market Law Review* 32 (1995), pp. 519-554; David O'Keeffe and Patrick M. Twomey (eds.) *Legal Issues of the Maastricht Treaty.* (London et al.: Wiley Chancery Law, 1994); Carlos Closa, 'The Concept of Citizenship in the Treaty on European Union', *Common Market Law Review*, 29 (1992), pp. 1137-1169; Carlos Closa, 'Citizenship of the Union and Nationality of Member States', *Common Market Law Review* 32 (1995), pp. 487-518; Kay Hailbronner, 'Third-country nationals and EC Law', in Allan Rosas and Esko Antola (eds.), *A Citizens' Europe. In Search of A New Order* (SAGE: London et al., 1995), pp. 182-206; Christian König and Matthias Pechstein (eds.), *Die Europäische Union* (Tübingen: J.C.B. Mohr, 1995).

4 The term 'developing concept' is used by the European

Commission, see: European Commission, 'Report on the Operation of the Treaty on European Union', Brussels, 10th May 1995, SEC(95) final, p. 7; as well as by the European Parliament, see: *European Parliament, Task-Force on the Intergovernmental Conference,* No. 10, 'Briefing on European Citizenship'; PE 165.793, Luxembourg, 15 January 1996, p. 5. On requests for place-oriented citizenship see, for example, the Antiracist Network for Equality in Europe (ARNE) request to grant citizenship to '[e]very person holding the nationality of a Member State and every person residing within the territory of the European Union'. (*Antiracist Network For Equality in Europe*, 'Modifications to the Maastricht Treaty in Sight of the 1996 Inter-Governmental Conference', Rome, 14-15 July 1995, p. 4 [Unpubl. Ms.]) Similar demands have been forwarded by the Euro Citizen Action Service (ECAS) (ECAS, 'Revision of part two of the Treaty' (draft 15:03/96), p. 1) The notion of a place-oriented conceptual approach to citizenship has been discussed by Jane Jenson within the Canada context. Jenson calls that approach 'place-sensitive' (Jane Jenson, 'Citizenship and Equity. Variations Across Time and Space', in Janet Hiebert (ed.), *Political Ethics: A Canadian Perspective*, vol. 12 of the Research Studies of the Royal Commission on Electoral Reform and Party Financing (Toronto: Dundurn Press, 1992).

5 Elizabeth Meehan has suggested this distinction among two schools. See: Elizabeth Meehan, Presentation at the conference '1996 and Beyond. A Constitution for Europe' at South Bank University, London, 18-19 April 1996.

6 The dynamic approach to citizenship is not only developed in relation with European integration. See: Elizabeth Meehan, *Citizenship and the European Community* (London et al.: SAGE, 1993); Ulrich K. Preuss, 'Citizenship and Identity: Aspects of a Political Theory of Citizenship,' in Richard Bellamy, Vittorio Bufacchia and Dario Castiglione (eds.), *Democracy and Constitutional Culture in the Union of Europe* (London: Lothian FP, 1995), pp. 107-120; Antje Wiener, *Building Institutions: The Developing Practice of European Citizenship* (Carleton University, Department of Political Science, unpubl. Ph.D. Dissertation, 1995). It is also discussed in the sub-discipline of international relations with a view to an emergent global society. See for example Friedrich Kratochwil, 'Citizenship: The Border of Order', *Alternatives* 19 (1994),pp. 485-506; Andrew Linklater, 'Citizenship and Sovereignty in the Post-Westphalian State', *European Journal of International Relations*, 2:1 (March 1996), pp. 77-103; Daniele Archibugi and David Held (eds.), *Cosmopolitan Democracy* (Campbridge: Polity Press).

7 As David O'Keeffe points out, according to estimates, the category of third country nationals entails about 8-13 million people, see: David O'Keeffe, 'Citizenship and Fundamental Rights', in: O'Keeffe and Twomey, *op. cit.*, p. 104. I am well aware of different by similarly problematic experiences of other groups of residents living in the EU. These include for example 'transnationals' (that is, young nationals who moved with their parents to reside in a member state of which they are not nationals but who have never been registered as adults in their member state of origin). This conceptually oriented paper will simply take one group as an example of possible problems and hence the potential for political tension emerging in relation to future Union citizenship politics. The term 'transnationals' is Helen Wallace's.

8 This incremental growth is best explained by the much discussed processes of 'widening and deepening' of the community, where widening refers to the enlargement process as new states become

members of the EC/U, the process of deepening defines the constitutionalisation of new institutions in the Euro-polity. See: Wolfgang Wessels, 'Deepening and/or Widening - Debate on the Shape of EC-Europe in the Nineties', Außenwirtschaft, 46:3/4 (1991), pp. 157-169.

9 Manfred Degen and Lode van Outrive, who were both involved at many stages in the discussion and formulation of citizenship policy in the Euro-polity, have repeatedly stressed the importance of this Article. See: Manfred Degen, 'Die Unionsbürgerschaft nach dem Vertrag über die europäische Union unter besonderer Berücksichtigung des Wahlrechts', *Die Öffentliche Verwaltung*, Heft 17, (September 1993), pp. 749-758; Outrive Report of the European Parliament, 1992. It is stated in Article 8e EC Treaty that '[t]he Commission shall report to the European Parliament, to the Council and to the Economic and Social Committee before 31 December 1993 and then every three years on the application of the provisions of this Part. This report shall take account of the development of the Union.' [emphasis added]

10 See for example the dynamic policy outline of the Commissions' white paper on 'Completing the Internal Market' (COM(85) 310 final, Brussels, 14 June 1985.

11 Thus movement of workers (and their families) has been addressed to allow for labour market flexibility; movement of academics and students was encouraged to create a feeling of belonging to the European Community through programmes that followed the Adonnino report towards 'A People's Europe' (Bulletin of the European Communities, Supplement 7, 1985). For a detailed account of how these policies were interrelated with Euro-citizenship policy, see Wiener *op.cit*. For a Commission proposal aimed at the democratic deficit which has been exacerbated by increasing inner-Community migration, see: the Commissions report on 'Voting rights in local elections for Community nationals"'(Bulletin of the European Community, Supplement 7, 1986).

12 For example, on the problems with the realisation of voting rights for Union citizens in municipal elections in France, see: Richard McMahon, 'Maastricht's Third Pillar: Load-Bearing or Purely Decorative?', *Legal Issues of European Integration* 1 (1995), pp. 51-64.

13 For a 'minimalist' approach, see Steve Peers, 'Towards Equality: Actual and Potential Rights of Third-country Nationals in the European Union', Common Market Law Review 33 (1996), pp. 7-50.

14 I first developed this approach elsewhere (Wiener *op.cit*).

15 As Evans and Oliveira point out, citizenship is 'a concept denoting the legal consequences which attach to the existence of a special connection between a defined category of individuals and a state' and thus essentially 'a provision which is made for participation by a defined category of individuals in the life of a state'. See: A.C. Evans and H. U. Jessurun d'Oliveira, Nationality and Citizenship. *Rapport realisé dans le cadre d'une recherche effectuée à la demande de la Communautée européenne.* Strasbourg, 20 - 21 November 1989), p. 2. See also Turner who finds that '[t]here are [...] two parallel movements whereby a state is transformed into a nation at the same time that subjects are transformed into citizens". See: Bryan S., 'Outline of a Theory of Citizenship', *Sociology* 24:2 (1990), p. 208.

16 Similar elements have been identified by Charles Tilly as basic criteria for state-making. He writes, '[i]n its simplest version the problem [of state-making] has only three elements. First, there is the population which carries on some collective political life - if only by virtue of being nominally subject to the same central

authority. Second, there is a governmental organisation which exercises control over the principal concentrated means of coercion within the population. Third, there are routinised relations between the governmental organisation and the population' (Tilly op.cit p. 32).

17 See: Charles Tilly, 'Citizenship, Identiy and Social History', in Ch. Tilly (ed.), Citizenship, Identiy, and Social History (Cambridge: Cambridge University Press, 1995), p. 5; see also David Held, 'Between State and Civil Society: Citizenship', in Geoff Andrews (ed.), *Citizenship* (London: Lawrence & Wishart, 1991) , pp. 19-25; Will Kymlicka and Wayne Norman, 'Return of the Citizen: A Survey of Recent Work on Citizenship Theory', *Ethics* (January 1994), pp. 352-381; and Bryan S. Turner (ed.), *Citizenship and Social Theory*, (London et al.: SAGE, 1993) for similar observations.

18 Kratochwil, *op. cit.*, Habermas, op. cit.

19 The notion of contentious politics is based in Tilly's work on state-making (Tilly, *op.cit*) and on Tarrow's adoption of this concept to analyse the 'Europeanisation of conflict' in order to assess the process of polity making in the EU. See: Sidney Tarrow, 'The Europeanisation of Conflict: Reflections from a Social Movement Perspective', *West European Politics*, 18:2 (April 1995), pp. 223-251. I argue here that this style of politics has an equally crucial meaning for dynamic approaches to citizenship.

20 David Held develops this perspective of citizenship stating that '[c]itizenship rights are entitlements. Such entitlements are public and social [...] They are 'of right' and can only be abrogated by the state under clearly delimited circumstances' (Held *op.cit*. p. 20).

21 The perspective of citizenship as the incremental addition of rights has been most prominently associated with T.H. Marshall, who divided 'citizenship into three parts [...] civil, political and social' (T.H. Marshall *op.cit*. p. 10). Civil rights comprised the right to liberty of the person, freedom of speech, thought and faith, to own property, to conclude valid contracts. Political rights included the right to participate in the exercise of political power. Social rights amounted to the right to a modicum of social welfare and security, to share in social heritage and to live the life of a civilised being (T.H. Marshall op.cit. pp. 10-11).

22 This perspective is highlighted by Brubaker who finds, '[i]ndeed political territory as we know it today - bounded territory to which access is controlled by the state - presupposes membership. It presupposes some way of distinguishing those who have free access to the territory from those who do not, those who belong to the state from those who do not'. See: William Rogers Brubaker, *Citizenship and Nationhood in France and Germany* (Cambridge, MA: Harvard UP, 1992) p. 22.

23 Contractarian perspectives on identity as one element of citizenship include, in particular, Young's concept of 'differentiated citizenship'(Young op.cit.), as well as Kymlicka and Norman's perspective on identity within the larger citizenship debate (Kymlicka and Norman op.cit.). For a holist approach to identity and citizenship see especially Habermas's contribution: Jürgen Habermas, 'Citizenship and National Identity', in Bart van Steenbergen (ed.), *The Condition of Citizenship* (London et al.: SAGE, 1994) pp. 20-35.

24 As Kratochwil notes '[i]t is perhaps best to conceive of citizenship as a space within a discourse on politics that institutionalised identities and differences by drawing boundaries, both in terms of membership and in terms of the actual political practices that are connected with this membership. An explication of the concept, therefore, is not governed by the atemporal criteria of adequacy or correspondence. It necessarily becomes historical, requiring an examination of the genealogy of the concept and its temporary reconciliations' (Kratochwil *op.cit*. p. 486).

25 For a study that problematises the 'Frontiers of Identity' as crossing national boundaries see: Robin Cohen, Frontiers of Identity. The British and the Others (London et al.: Longman, 1994).

26 An increasing awareness of such boundaries is documented in a number of recent studies on migration, multiculturalism and citizenship. See for example Anthias and Yuval-Davis (1992), Bakan and Stasiulis (1994), Mathias Bös, 'Die Ethnisierung des Rechts? Staatsbürgerschaft in Deutschland, Frankreich, Grossbritannien und den USA', Kölner Zeitschrift für Soziologie und Sozialpsychologie, 45/4 (1993), pp. 619-643; Jane Jenson, 'Mapping, Naming and Remembering: Globalization at the End of the Twentieth Century', Review of International Political Economy, 2:1 (1995), pp. 96-116; Kymlicka and Norman op.cit., Young op.cit., Nira Yuval-Davis, 'Gender and nation', Ethnic and Racial Studies, 16:4 (1993), pp. 621-632.

27 Closa, *op. cit.*, 1995, p.493

28 Meehan, *op. cit.*, 1993.

29 Meehan, *op. cit.*, 1993, xii.

30 See: Bulletin of the European Communities, Supplement 7, 1986, p. 6

31 OJ EC, No. C 241, 19.9.81, Council resolution

32 See COM(89) 568 final which was adopted at the European Council meeting at Strasbourg, 8-9 December.

33 Meehan, *op. cit.* , 1993, Wiener *op. cit.*, 1995).

34 Koslowski argues that it is useful to compare the 'segmented citizenship' in the EU with the United States, see: Rey Koslowski, 'Intra-EU Migration, Citizenship and Political Union', *Journal of Common Market Studies*, 32/3 (September 1994), p. 389-91. Also see: Meehan, *op. cit.* , 1993; Wiener, *op. cit.*, 1995.

35 For work that addresses the emergent style of political mobilisation on different levels within the Euro-polity, see the contributions to the approach of 'multi-level governance', for example: Liesbet Hooghe, 'Subnational Mobilisation in The European Union', *West European Politics* 18:3 (1995), pp. 175-198; Elizabeth Bomberg, 'European Decision-Making: The Role of Sub-National Authorities', Paper prepared at the Political Studies Association Conference, Glasgow, 10-12 April 1996; Liesbet Hooghe and Gary Marks, 'Birth of a Polity: The Struggle Over European Integration', Paper presented at the Tenth International Conference of Europeanists, Chicago, March 14-16, 1996.

36 [my translation from the German original], see: Giaco Schiesser, 'Migration, Rassismus und Citoyenneté. Über die Grenzen hinaus', *WochenZeitung* 42, 20. October 1995, p. 24

37 Indeed, according to O'Keeffe 'Union citizenship could be conferred on third country nationals lawfully resident in the Union. It would be made subject to the satisfaction of certain criteria, modelled on those required in national law.' (O'Keeffe 1994:105; cf. McMahon, *op. cit*. p. 55)

38 On the question of third country nationals and the policy debate within the Euro-polity, see for example Hailbronner, op.cit.

39 For the concept of closure and disclosure see William Rogers Brubaker (ed), *Immigration and the Politics of Citizenship in Europe and North America* (Lanham: UP of America, 1989); Yasemin N. Soysal, *Limits of Citizenship: Migrants and Postnational Membership in France* (University of Chicago Press, 1994); Bös *op. cit.* 9