

# Comparative Multilevel Citizenship

## 9 May 2022

Building on decades of efforts to create a European citizenship, member states introduced a common citizenship thirty years ago, in the Maastricht treaty. This workshop explores the impact of EU citizenship and its consequences for European integration while casting a wider eye to other forms of supranational and/or multilevel citizenship in Africa, Asia, the Americas, and elsewhere. One focus of the workshop is migration and free movement, because regulating the movement of people has always interacted with federalism, sovereignty, and regional relations between states. The rise of regional free movement, perhaps coupled with a common citizenship, strengthens regional integration beyond mere trade agreements. Furthermore, incentives or disincentives to internal migration exist in tension with ideals of equal citizenship. Debates about internal migration in states such as India, China, Brazil, or even the United States or Canada are comparable to debates about the possibilities and limits of EU citizenship in facilitating free movement among EU member states.

### Panel 1

09:30-11:00 Toronto time (starting 19:00 Delhi, 15:30 Amsterdam, 06:30 Pacific)

#### **Hierarchical Citizenship and the Gap between Inclusive Migration Policies and Exclusionary Practice**

Olivia Woldemikael

Many Global South migrant-hosting countries in Africa, the Middle East, and Latin America, are lauded for their inclusive migration policies that grant expansive rights to migrants and refugees such the freedom of movement, the right to work, and access to public services. However, these states often lack the capacity to guarantee such rights to their own citizens, and are even more limited in their ability to provide them to refugees and migrants. In this paper, I explore this gap between inclusive migration policies and their application in practice, applying theories of hierarchical citizenship by Lori (2019), Cohen (2009), and Castles (2007). In order to do this, I use a study of South-Sudanese refugees in Uganda, as Uganda has been widely considered “one of the best places to be a refugee” (BBC News 2016) with limited anti-refugee sentiment in the host community and almost no political opposition to refugees. Drawing on over 40 interviews and qualitative work in refugee settlements, I argue that refugees simply existing within the Ugandan territory can make few claims on the benefits of Ugandan citizenship since there are limited rights that are accessed by simply residing within the Uganda's borders. This leads to a surface level characterization of refugee-host relations as accepting without delving into the cleavages and divisions that underpin the relationship. Instead, by looking at where Ugandans demarcate boundaries between themselves and refugees, I reveal that refugees are excluded from these local understandings of citizenship. By shedding light on the dynamics of citizenship and refugee reception in the context of the Global South, where most forced migration occurs, I contribute directly to global scholarly debates on immigration.

#### **Leisure Mobilities along Fault Lines: Citizenship and Cultural Nationalism in South Asia** Ghazala Jamil

Citizenship when interposed with identity, memory and politics is very complex, especially in South Asia. States in the region have employed cultural nationalism all too often to push for exclusionary conception of citizenship and to justify the dispossession of the already impoverished and beleaguered minorities. The article will begin by delineating the most contentious questions of national citizenship and ethno-religious strife in the region. It will briefly place the histories of citizenship laws in South Asian States in the backdrop of the experience of democracy and evolution of cultural nationalisms in each state. It will trace the fortunes of 'South Asian' as a regional identity while interrogating the role of homegrown brands of cultural/ethno nationalism in bilateral and regional cultural cooperation. While the experiences of forced migrants and refugees have long been a fertile ground for studies providing insight into socio-economic stresses, international disputes etc, this article trains its scrutiny to leisure mobilities or travel undertaken by pilgrims and tourists. Leisure travel is mostly studied in the tourism studies which reify such travel as merely pleasure-seeking action without any political consequence. While there is recognition that tourism is an important mode through which people fashion their class position by showcasing their capacity to consume, this article will evidence that that the legal, policy and institutional regimes for governance of tourism and heritage, and certain tourist practices are deeply embroiled in nationalist and ethno-nationalist tendencies. The article will argue that on the one hand spatial transformation through tourism development disrupts the sense of belonging through distortion or obliteration of histories of the dispossessed and subalterns, while on the other, tourists undertake travel (or are governed through State-practices) to chart trajectories that contest memories, thereby altering geographies. Within this, the article will focus its attention on cross border and internal travel routes and circuits which signal exclusion and inclusion criteria in national communities. This study positions itself at the unlikely conceptual frontier between leisure mobilities, cultural nationalism and citizenship. It will aim to contribute to the understanding of the yet incomplete, continuing projects of nation-building by the South Asian States saddled by issues arising out of linguistic and religious fault lines that refuse to be neatly contained by their (redrawn) borders.

### **Bordering in Europe: Differential Inclusion**

Peter O'Brien

Many scholars now challenge the popular notion that borders are designed primarily to keep out (unwanted) foreigners. Critical Border Studies draw attention to the varied ways in which borders actually enable and even encourage the entrance of "foreigners" (Düvell, 2006; Mezzadra and Neilson, 2013; Squire, 2011). Moreover, this includes not only officially desirable border-crossers like legal immigrants and tourists, but also officially undesirable or "illegal" migrants. Indeed, the number and prevalence of the undocumented have grown to such an extent that scholars now theorise the "irregularization of migration" (Jansen, Celikates and de Bloois, 2015) or the "regularization of irregularity" (O'Brien, 2016: 85). Sassen (2014: 23) avers that "unauthorized immigration has emerged as a generalized fact in all Western economies in the post World War II era". De Genova (2015: 8) characterises "Irregularity... [as] a very regular and predictable feature of the routine and systematic functioning of border and immigration enforcement regimes". Despite their regular inclusion into designation lands, undocumented migrants have an inferior, precarious legal status compared to legal migrants and citizens. Furthermore, most (not all) undocumented migrants suffer an underprivileged socio-economic existence because their uncertain legal status makes them highly susceptible to exploitation (Anderson, 2013; Fedyuk and Stewart, 2018a; Kraler, 2019, Sainsbury, 2012; Squire, 2011).

This article advances the theory of differential inclusion (Mezzadra and Neilson, 2013). Different degrees of citizenship and residency rights, ranging from fully legal to semi-legal to illegal(ised), translate into significant political and socio-economic stratifications. Surveying the vast literature on immigration in Europe, the article differentiates between three types of migration -- regular, irregular and blocked -- and underscores the gravely different consequences of each for migrants. The conceptual lens of differential inclusion rightly focuses attention on the millions of “losers”, that is, those adversely affected by the phenomenon, although the “victims” are hardly powerless to resist their oppression (Squire, 2011). This understandable focus, however, often obscures the “winners,” who are actually as integral to the practice and persistence of differential inclusion as the losers. The essay employs Foucault’s (2007: 311) notion of “assemblage” to shed light on those persons and institutions that (most) benefit from differential inclusion. The conceptual lenses of differential inclusion and assemblage reveal a Europe, in which the model and ideal of citizenship are transforming from ones based on equality to ones based on stratification. The transformation, furthermore, gives cause to reconceptualise what is meant by sovereignty, citizenship and, indeed, Europe itself.

### **Naturalization Law versus Practice and Motivations of those Applying for Citizenship: A Case Study**

Hannah Bliersbach

The story of naturalization in Western liberal democracies in the past decades has been one of liberalization. As women have gained the right to pass on their citizenship to their children, *ius soli* provisions have been added to citizenship regulations, and the holding of multiple citizenships has become increasingly accepted (Spiro 2010; Vink & de Groot 2010), states claim to have paved the way for new citizens to seize their full set of rights within their country of residence. However, the perspectives of migrants continue to be underrepresented within the scholarship (Yanasmayan 2015) and only a handful of studies examine citizenship policy with a bottom-up approach (Conover-Johnson et al. 1991; Hurenkamp et al. 2011; Lister et al. 2003; Miller-Idriss 2006) - even fewer concentrate on naturalized citizens (Badenhoop 2021). Based on 15 semi-structure interviews with naturalized citizens conducted in the fall of 2021 in the greater region of Cologne, this paper focuses on the lived experiences of those moving through the process of acquiring German citizenship. The thematic analysis of these interviews offers unique insights into (1) the discrepancy between citizenship and migration law on the books and its implementation and (2) the motivations of those choosing to apply for citizenship. The analysis finds that the acquisition of German citizenship is especially potent for third-country nationals, who wish to become or remain (in case of British migrants) EU citizens and who are highly aware of the freedoms granted to citizens of the EU. Those acquiring German citizenship, who already hold an EU nationality, report identifying rather as a “European citizen” than as a national of either country specifically. For these individuals, naturalization is often a not strictly necessary, but nonetheless freeing step as citizenship law does not only affect migrants through the bureaucracy and greater state system, but also through small indignities in everyday practices such as a post-worker withholding a package upon seeing a non-German identification card. As demonstrated by these types of instances, EU citizenship only provides a certain level of equality to internal migrants.

### **Panel 2**

11:30-13:00 Toronto time (starting 21:00 Delhi, 17:30 Amsterdam, 08:30 Pacific)

## **European Identities and Migration Preferences**

Théoda Woeffray and Fabio Wasserfallen

Identity matters for explaining attitudes towards the EU and also in the case of migration. But how? Most of the existing literature builds on a binary conceptualization of identity, which essentially distinguishes between EU citizens that have integrated some (not specified) form of a European identity – in contrast to those who have exclusively national identities. Not surprisingly, empirical studies show that exclusive national identities correlate with preferences for more restrictive migration policies. A shortcoming of this setup is that the analytical link between identity and migration policy preference is rather loose, as the correlation between the two may only reflect that they correspond to a common latent dimension, and it ignores the multidimensionality of both identity and migration policy. We propose a more nuanced framework of identity which (a) distinguishes between a civic and cultural conception and (b) varies in how citizens evaluate their own in-group vis-à-vis the out-group. In a second step, we aim to relate this conceptualization of identity to EU migration attitudes, where we distinguish between two forms of community membership and predict whom one prefers as a (a) member of the EU/European community or neighbor, and (b) migrant coming to the EU. We present the first results from a pilot study on our survey, including a conjoint experiment, evaluating the links between respondents' EU/European identity and their preferences regarding different types of migrants. The findings on how identity relates to migration attitudes will have important implications for the challenges of EU migration policy.

## **Thinking European Citizenship Anew: The Multilevel Register of European Personal Statuses**

Espen D.H. Olsen and Agustín José Menéndez

EU citizenship was heralded as a panacea to the democratic deficit after its inclusion in the Maastricht Treaty. In this paper, we critically discuss the development of EU citizenship starting from a definition of citizenship as full membership in a political community. In so doing, we consider the key elements in the historical evolution of EU citizenship from what we call the “protocitizenship” of the 1960s and 1970s. We then move to consider the dynamics that led to a clear discontinuity in the late 1970s, resulting in the emergence of “European citizenship” *before* it was formally enshrined in the primary law of the Communities. Next comes the analysis of the Treaty of Maastricht, in which the pre-existing legal and political practices were placed under a new symbolic heading, source of many promises, while largely codifying the substantive content of the practice of citizenship emerging from the 1970s. This prompts us to consider how the lack of a coherent concept of political membership allowed the Commission and the Court to take steps towards what seemed a post-national personal status, only to retreat into rather exclusionary legal categories once the financial, economic and fiscal crises hit the European Union in the late 2000s and early 2010s. Finally, we utilize this historical reconstruction to analyze what we call the European personal status as a multilevel phenomenon, contrasting it with other forms of federal and multilevel citizenship.

## **Multilevel Citizenship, Differentiation, and Class Distinction in EU Citizens' Family Reunification Rights**

Hester Kroeze

The European Union is characterized by the peaceful coexistence of the national and the EU legal order. Being dependent on and additional to the nationality of the Member States, EU citizenship reflects this complementarity. Situations that fall outside the scope of EU law are governed by national law, but still must adhere to the minimum standards of human rights law, particularly the ECHR. This means that both the EU legal order and EU citizenship are composite in nature, which allows EU citizens to derive rights from different levels of government, and ties them to multiple legal orders (Shaw 2011; Van Eijken 2015). The flip side of this complementarity is that each layer of rights provides a distinct level of protection, which results in fragmentation of rights (Staver 2013; Adam & Van Elsuwege 2017). A clear example of this fragmentation can be found in the acknowledgment of EU citizens' family reunification rights. Especially in Member States that favor restrictive migration policy, the differentiation in substantive rights – that is dependent on the applicability of EU or national law – can be significant (Tryfonidou 2009; Verbist 2017). This divergence leads to a constant renegotiation of the definition of the scope of EU law, which creates new categories of family reunification, complicates the legal framework, and blurs the line between EU and national law (Kroeze 2022). The field of EU citizens' family reunification rights thus illustrates the strengths of composite citizenship and complementary protection of rights, as well as the risk of compromising accessibility of rights. The proposed paper intends to map the process of fragmentation of family reunification rights in the EU's multi-layered legal order, and through this lens explore the benefits and drawbacks that accompany composite citizenship and complementary protection.

### **Social Rights and EU Citizenship: Inclusion and Exclusion in a Multilevel System**

Sandra Mantu and Paul Minderhoud

The legal category under which EU citizens exercise their right to free movement – worker, jobseeker, student or economically inactive - determines access to social rights in the host state and leads to differential inclusion in the welfare state. On paper the right to equal treatment in relation to welfare entitlements seems straightforward but its application has been subject to constant litigation before the European Court of Justice, leading to the refinement of the conditions under which migrant EU citizens can access welfare and the implications of such requests for their right to reside in an EU state. Moreover, while the conditions of access to an EU host state's welfare system are set at the EU level, the delivery of welfare takes place at the national and local levels, making national administrations and their bureaucrats important actors in the governance of welfare. The aim of this paper is to tease out the relationship between different levels of jurisdiction in the governance of access to the welfare state. We rely on data from eleven Member States in which we monitored the application of the relevant EU legislation and case law during the time frame 2016-2020. The main trends we discern are a growing interdependence between immigration and welfare authorities underpinned by technological fixes and a move towards the systematic control of all EU applicants for social assistance in several states. We argue that these developments are facilitated by the turn in the CJEU's jurisprudence that limits entitlement to welfare for economically inactive EU citizens and emphasizes conditionality and legal residence as the main axes determining access to the welfare state. Finally, we reflect on how the process of digitalisation changes the delivery of welfare, and potentially leads to the 'fragilization' of EU citizenship.

### **Panel 3**

13:30-14:45 Toronto time (starting 22:30 Delhi, 19:30 Amsterdam, 10:30 Pacific)

## **Local Inclusion and National Exclusion? Noncitizen Migrants in Canada**

Afag Javadova

Various studies have found that a growing number of foreign nationals live within the territories of nation-states of which they are not citizens (Stahl 2020; de Graauw 2014). The presence of both undocumented and legal immigrants in the cities with large immigrant populations has led to a situation that Varsanyi (2005) has described as "an emerging urban political crisis" (2). As a consequence of the division between de jure citizenship policies which link an individual's citizenship to membership to a territorial nation-state, and the de facto residence of noncitizens within those same territorial nation-states, many individuals become deprived of their rights and privileges citizenship bestows upon formal members. Citizenship, often conceived as political membership in the community, creates a mix of inclusionary and exclusionary dynamics. The paper examines the historical evolution of citizenship and discusses how the different dimensions of the present concept – legal rights, responsibilities, participation, and identity – are expressed in the modern-day dynamic interaction between an individual and a nation-state. Using Toronto as a case study, the paper explores the contemporary tensions caused by the disconnect between an individual's country of physical presence and the place of their political and civic membership. By unpacking the exclusionary and discriminatory aspects of nation-state membership, the paper critically examines how formal membership has been used to construct "insiders" and "outsiders" in the city with a diverse migrant population. Furthermore, surveying the academic and grey literature, the paper contextualizes the problem of disenfranchisement and describes the different integration strategies designed by global cities specifically for their noncitizen populations. By interrogating such strategies and aspects of newcomer integration pursued at the local level, the paper seeks to understand whether global cities could adjust to increasing human mobility by accepting residence as a primary principle for membership. The paper identifies the uses and limits of the increasingly widespread discourse on subnational forms of membership, with a particular focus on urban citizenship, as a way to create alternative spaces for claim-making and access to political and civic rights in Canada and beyond.

Keywords: newcomers, political incorporation, urban citizenship, right to the city

## **Citizenship in Contested Territories**

Ramesh Ganohariti

The contested nature of the de facto state results in an unclear and contested legal (citizenship) status for people residing in these polities. In trying to explain the phenomenon of citizenship in de facto states, one concept that has been used is liminality. De facto states are involuntarily and permanently stranded in the process of transitioning from a sub-state region to a recognised state or being reintegrated/reunified with the base state. Krasniqi (2019) argues that this ambiguous legal status can result in their citizens not having full rights as those afforded to citizens from recognised states, and thereby possess liminal citizenship. In other words, de facto state citizens are neither nationals nor stateless (Bryant, 2014; Krasniqi, 2019), but concurrently can be seen as both, and "more often than not ... are 'invisible' when it comes to international law" (Krasniqi, 2019, p. 5). That said, my work argues that multiplicity is a more encompassing concept and has stronger explanatory power vis-à-vis liminality when discussing citizenship in (post-Soviet) de facto states. This research does not reject the concept of liminality, rather it argues that liminality paints a partial picture of citizenship in these contested polities. Rather, the research argues that liminality may only apply to the citizenship of de facto states, but not to the wider citizenship

constellation that an individual belongs to. Thus, the term multiplicity acknowledges the intersectionality and entanglement of multiple citizenship regimes, each with different degrees of recognition, and with each citizenship comprising of three core dimensions: legal status, rights and duties, and belonging/identity based (Bloemraad et al., 2008; Delanty, 2000; Joppke, 2010; Kochenov, 2019). Furthermore, this entanglement created multiple levels of citizenship. Within Abkhazia (locally) a resident may have a full set of rights and duties associated with any citizenship, however internationally this de facto state citizenship is not recognised and provides no rights. As a result, outside the de facto state, an individual is compelled to use the citizenship of a recognised state or in the absence of which can be considered stateless. Thus, for example, while domestically they are citizens of Abkhazia, South Ossetia, or Transnistria, internationally they are citizens of Russia, Moldova, Ukraine or are stateless. Concurrently, these individuals may have other citizenship identities based on their local region/city or ethnic/linguistic attachment with kin. As such, this paper will discuss the different citizenship (identities) individuals may be linked with within a multilevel citizenship constellation.

### **Territorial Governance, Fiscal Decentralization and Multilevel Citizenship in Europe**

Yasemin Irepoglu Carreras

Multilevel contexts, whether they are constitutionally federal or unitary states, aim to balance the self and shared rule of different territorial governing levels to cater to the preferences of their citizens. In many instances, decentralization is often advocated to deliver improved welfare state policies to citizens. However, balancing subnational autonomy and diverse preferences with the aims of horizontal equality and uniformity is a political, economic, and social challenge. Welfare state policies are provided by various territorial levels (e.g. national, regional, local, etc.), which can indicate challenges with overlapping and exclusive competences for these levels. Within welfare state provision, especially fiscal self-rule and fiscal shared-rule arrangements have important repercussions on territorial/regional economic inequality, which in turn can significantly reveal, underscore, or heighten the challenges related to “multilevel citizenship” within nation states. From this perspective, I ask the following questions: How do issues related to multilevel citizenship within a state, such as dual or multiple identities, regional competitiveness and possible internal migration impact territorial fiscal and redistributive arrangements? And in turn, how do the territorial fiscal arrangements influence the discussions around multilevel citizenship within a state? This paper tackles these questions by examining the significance of the links between fiscal territorial governance, overlapping/exclusive competences, territorial (in)equality, and multilevel citizenship using the "structure, agency, process and output" framework in four illustrative cases in Europe. These cases are part of a typology: Two federal countries, Germany and Spain (de facto federal), and two unitary countries, France and Sweden. To that end, I make use of interview data gathered in fieldwork and primary and secondary sources. In the case studies, one subnational unit in each country is highlighted as an example to explain the central – subnational level relations and the discussions related to fiscal decentralization and multilevel citizenship: the autonomous community – *comunidad autónoma* of Catalonia (Spain), the state - Land - of North-Rhein-Westphalia (Germany), the county - *län* - of Västra Götaland (Sweden) and the region – of Brittany (France). Furthermore, I conduct this analysis against the backdrop of these countries being European Union members, taking into the significance of supranational territorial governance in this discussion.

## Concluding thoughts

14:45-15:00 Toronto / 23:45-00:00 Delhi / 20:45-21:00 Amsterdam / 11:45-12:00 Pacific

## Presenter bios

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