Studying Citizenship Constellations

Rainer Bauböck

The papers in this special issue of JEMS illustrate how the field of citizenship studies is moving towards a much more systematic comparative approach. They also indicate that the gap between political and legal branches might be narrowing. This brief concluding contribution reflects on a perspective that goes beyond the currently dominant framework, without replacing it. For both comparative and normative purposes, we need to study not merely the citizenship traditions, laws and policies of states considered separately, but rather as part of intertwined citizenship constellations.

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Introduction

Until the 1990s, the study of citizenship consisted of two quite separate branches. The broader of these understood citizenship as responding to questions about the domestic political order of democratic states. The two core problems it addressed were the nature and extent of social equality among citizens in capitalist economies (Marshall 1965) and the problem of how to promote civic virtue and political participation in liberal democracies (e.g. Walzer 1970). The narrower branch interpreted citizenship as a legal status attributed to individuals by states and the legal rights and obligations attached to this status (e.g. Grawert 1973; Jellinek 1892). Studying citizenship in the latter sense was for a long time the natural domain of legal scholars, but the multidisciplinary field of migration studies has recently produced an outpouring of new comparative literature on ‘citizenship as nationality’. This is not surprising. International migration not only implies a crossing of territorial borders, but also creates populations of foreign residents inside and expatriate citizens outside the state territory, and post-migration settlement raises the question of whether citizenship status will be reallocated in response to this process.

Rainer Bauböck holds a Chair in Social and Political Theory at the European University Institute, Florence. He is on leave from the Institute for European Integration Research at the Austrian Academy of Sciences. Correspondence to: Prof. R. Bauböck, Dept of Political and Social Sciences, European University Institute, Badia Fiesolana, Via dei Roccettini, 9, 50014 San Domenico di Fiesole (Firenze), Italy. E-mail: Rainer.Baubock@eui.eu.
The articles in this special issue of *JEMS* provide a quite representative sample of current studies of citizenship in Europe in the narrow sense. They illustrate how the field is moving towards a much more systematic comparative approach, and indicate that the gap between the two branches might be narrowing as they continue to grow. Social cohesion and the civic integration of immigrants has become a core concern of citizenship policies in a number of countries and some scholars respond to this ‘thickening of citizenship’ by proposing alternative principles for citizenship attribution (Kostakopoulou 2010, this issue).

In this brief concluding reflection I will not attempt to summarise or criticise current trends in the study of citizenship in migration contexts. What I want to propose instead is a perspective that goes beyond the dominant framework without replacing it. For both comparative and normative purposes, we need to study the citizenship traditions, laws and policies of states not merely separately, but rather as part of intertwined citizenship constellations.

**From Comparative Analysis to Studying Constellations**

Citizenship as a legal status is a relation between individuals and territorial political entities, among which states are the most important ones. What I suggest calling a ‘citizenship constellation’ is a structure in which individuals are simultaneously linked to several such political entities, so that their legal rights and duties are determined not only by one political authority, but by several. This rough definition applies, firstly, to all democratic federations, in which the rights of citizens are determined not only by federal authorities, but also by autonomous sub-state governments. It applies, secondly, to the EU, in which union citizenship is determined by the nationality laws of the member-states and complements national citizenship with transnational rights of free movement between member-states and supranational rights of political participation in European Parliament elections. Thirdly, citizenship constellations are not only generated by the political integration of states into a larger polity, but also by migration between them. The legal status and rights of migrants are determined by the laws of their country of residence and of external citizenship. Many scholars have analysed denizenship as a quasi-citizenship status that diminishes the value of national citizenship in the country of immigration. What they have tended to ignore is that denizens are at the same time foreign nationals of a country of origin. Both denizens with a foreign nationality and multiple nationals are therefore positioned in the same citizenship constellation, although their respective positions are somewhat different, with the latter enjoying rights of readmission in both states and thus free movement between them. Finally, citizenship constellations between independent states are not only the result of migration, but also of shifting state borders that have left ethnic kin minorities stranded in neighbouring state territories. In Central and Eastern Europe, Bulgaria, Hungary, Poland, Slovakia, Slovenia and Romania offer co-ethnic groups in the ‘near
abroad’ either a status of quasi-citizenship, or formal dual nationality (Kántor et al. 2004; Liebich 2009).

How would a focus on constellations be fruitful for empirical studies of citizenship? It helps, firstly, to better understand individual interests in relation to alternative citizenship statuses. On the one hand, states determine the general rules and take decisions on how they apply to individuals. On the other hand, migrants and their family members are also agents who choose between alternative citizenship options. From a research perspective that focuses on migrants, we need to study how their interests are affected by state decisions on citizenship and how they take their own decisions in response to a given ‘citizenship opportunity structure’. To give an example, different naturalisation rates among immigrant populations from different origins can hardly be explained by domestic factors alone, such as degrees of social and cultural integration. We need to take into account what instrumental and expressive value a citizenship of origin has for immigrants and whether the nationality laws of either the source country or the country of settlement force naturalisation applicants to abandon their citizenship of origin. A constellation perspective introduces thus a transnational dimension into the study of citizenship choices and helps to overcome a receiving society bias that has plagued migration research ever since the pioneering studies of the 1920s Chicago School of Sociology.

Secondly, this perspective would also enrich public policy research on citizenship. International relations scholars have recently become interested in homeland citizenship policies in order to understand how countries of emigration instrumentalise external kin and emigrant groups to enable expansion of their political influence in host countries (Brand 2006; King and Melvin 1998). Relations of power and influence can, however, also point in the other direction when external citizenship provides political entrepreneurs with opportunities to mobilise diasporas in order to influence politics in the homeland. Transnational perspectives in migration studies have suggested a triangular analytical framework that includes countries of origin, countries of immigration and migrants as political actors (Glick Schiller et al. 1994). A citizenship constellation is a structure that comes into view when this general approach is applied to the field of citizenship policies. What is missing, however, in most analyses of migrant transnationalism is a focus on institutional change as a result of migration flows (Bauböck 2003). A citizenship-constellation perspective brings into view how host and home countries create a web of legal and political ties with migrant and ethnic kin groups that also affects intergovernmental relations and public policy reform in each country. International law embraces a strong norm of self-determination of citizenship. But within a citizenship constellation, decisions taken by one state have external effects on other states’ relations with populations linked to them through citizenship ties. Such externalities are especially obvious in the European Union, where each country may produce under its own laws citizens who enjoy immigration rights in all other member-states. Member-states offering their citizenship to extraterritorial kin minorities or large populations of emigrant ancestry thereby undermine, to a
certain extent, the immigration control of other EU states (Vink and de Groot 2010, this issue).

Where countries have been connected through large migration flows for some length of time, their citizenship policies may eventually become interactive, so that each government responds to the other’s reforms. German–Turkish relations provide a good illustration. The 1992/93 arson attacks on Turkish immigrants in the German towns of Mölln and Solingen triggered a debate in Turkey about emigrants not being sufficiently protected while they are foreign nationals. The German naturalisation requirement to renounce a previous nationality meant, however, that Turkish emigrants would lose their rights to unconditional return to Turkey, to own land and to inherit property there. Turkey therefore introduced in 1995 the so-called pink card, which also secured all these rights (apart from the right to vote) for former citizens who had to renounce their nationality. However, the pink card was not popular among Turkish emigrants since they believed that only dual citizenship would provide them with sufficient guarantees (Çağlar 2004). Turkey’s second response was therefore to exploit a loophole in German pre-1999 nationality law that did not permit withdrawing nationality from a citizen residing in Germany. Turkish immigrants could thus reacquire Turkish nationality after having renounced it in order to acquire German citizenship. The new German citizenship law of 1999 closed this loophole by providing that German citizenship would be lost automatically if another citizenship was acquired. For some time, Turkish migrants and authorities were either unaware of this change or felt they could safely ignore it. Only in 2003 did reapplications for Turkish citizenship drop sharply. The German government announced that about 48,000 Turkish migrants had violated the new law and started to nullify their German citizenship. An estimated 20,000 German-Turkish voters were thus disenfranchised in the 2005 elections as a consequence of losing their German citizenship (Bauböck 2006).

What this vignette illustrates is how states in a strongly intertwined constellation react to each others’ citizenship policies without attempting to coordinate them explicitly. Explicit coordination is, of course, the goal of international conventions on nationality, statelessness and multiple citizenship (Vink and de Groot 2010, this issue). However, in a policy area considered as a core of state sovereignty, such international coordination can only establish basic minimum standards that address general externalities of citizenship policies and reduce the potential for interstate conflict. Collective action dilemmas that emerge within particular constellations such as the EU, the German-Turkish, or the Hungarian-Romanian-Slovakian ones, are more specific. A constellation framework contributes then to explaining public policy changes in individual states but also to analysing institutional reform options for coordinating citizenship policies between them.

This perspective does not suggest replacing, but instead linking together, in-depth analyses of citizenship policies that focus on domestic political arenas (see Helbling 2010; Honohan 2010, both in this issue). It also does not challenge the value of quantitative comparisons that condense legal provisions into indices (Migration
Policy Group 2007; Waldrauch and Hofinger 1997; also Goodman 2010; Howard 2010, both in this issue) or try to measure determinants of naturalisation decisions and their impact on migrants’ social status and economic opportunities (deVoretz 2008; Ersanilli and Koopmans 2010, this issue). What it would encourage researchers to do in this respect is to design instruments in such ways that information about migrant sending countries can be included in comparative analyses.

**Explaining and Evaluating Policy Trends**

Much of the comparative literature has been concerned with answering the question as to whether there are long-term trends of convergence, liberalisation and devaluation of citizenship. These are three independent hypotheses and verifying them depends a lot on what indicators we choose. The starting-point of the debate was, on the one hand, Rogers Brubaker’s historical institutionalist comparison of France and Germany, which assumed strong path-dependency of citizenship policies shaped by initial circumstances of nation-building in spite of similarities in contemporary immigration experiences (Brubaker 1992). On the other hand, Yasemin Soysal (1994) and David Jacobson (1996) have argued that international human rights law and discourses had undermined the salience of citizenship by creating deterritorialised rights attached to personhood rather than membership in political communities. Both approaches were challenged by subsequent studies that found considerable convergence of states towards more liberal standards across Europe, but emphasised domestic rather than international causes (Hansen and Weil 2001; Joppke 1999). Most recently, studies of larger samples of countries with a broader set of indicators have suggested more complex answers, with convergence on some dimensions—but not all of it in liberal directions—and persistent differences between clusters of countries on other dimensions (Bauböck et al. 2006; Howard 2006; and several papers in this issue).

Soysal’s claim of a general devaluation of citizenship has recently been reaffirmed for the US context in an important book by the American legal scholar Peter Spiro. He claims that the rules of membership in the American state—which include constitutionally entrenched *ius soli*, low thresholds for naturalisation, *de facto* toleration of plural nationality and due process and equal protection rights for resident aliens—are symptoms of an irreversible decline of citizenship as a meaningful status of membership in a particular political community. Not even the anti-immigrant reforms of the mid-1990s or the securitisation of immigration after September 11 have turned back the clock. In Spiro’s account the underlying cause is globalisation, which has spread the English language, the American culture and political values abroad and has thus made potential immigrants Americans already before arrival. The impact on citizenship as a marker of identity is devastating: ‘Once everyone is an American, no one is an American’ (Spiro 2008: 52).

Spiro’s interpretation will certainly be hotly disputed by the American conservative and liberal nationalists whose visions of citizenship as a unifying bond he attacks
relentlessly. But it also provides an illuminating contrast with several of the findings in this issue of JEMS. For Vink and de Groot the dominant current trends in Europe are an increasing instrumentalisation of citizenship for immigrant integration and migration control policies and a politicisation that emphasises the symbolic value of citizenship as an identity status. Kostakopoulou and Goodman describe a trend towards the thickening of citizenship that manifests itself in the spread of citizenship ceremonies and in civic integration tests as a condition for access to permanent residence and naturalisation.

One could object that these are largely symbolic policies that react to the very same cheapening of citizenship in the eyes of native populations that Spiro describes. One could also point out that the trend towards thicker citizenship is by no means Europe-wide. By distinguishing the general accessibility of citizenship from civic integration criteria, Goodman usefully identifies four different strategies: a prohibitive one that combines high hurdles for eligibility with increased emphasis on integration tests, an enabling strategy that lowers both types of barrier, a conditional strategy with low thresholds for eligibility but stronger demands for civic integration, and an insular strategy that does not need to test individual integration because citizenship has never been offered to first- or second-generation immigrants. The most interesting cases for comparison with the US, Canada or Australia are countries like France, the UK, the Netherlands and, after the 1999 reform, Germany. These have removed arbitrary discretion and descent-based criteria of exclusion but now steer a new course towards a thick republican version of citizenship that screens applicants for their civic virtues, loyalty to the constitution and integration efforts. Spiro believes that liberal democracies that encourage immigrants to subscribe to universal values as a condition for civic integration undermine the particular identity value of citizenship for the political community. These European countries demonstrate, however, that the same values can become an instrument for citizenship exclusion and even for a certain re-ethnicisation of citizenship by exempting Western-origin immigrants from civic integration requirements and by targeting Muslims as potential suspects who are presumed to reject these values.

Spiro’s devaluation hypothesis is more plausible as a specific claim about American citizenship than as a global trend among liberal democracies. In Europe, there is certainly no expectation that immigrants will already be sufficiently French, British, Dutch or German before arrival and recent moves towards introducing language tests for immigrants already before departure highlight public anxieties about integration failure.

There is a second problem with Spiro’s account of citizenship decline, which is that he implicitly accepts the dominant view that considers only how migration affects the value of citizenship in an immigrant receiving state. For Spiro, liberal nationalists’ belief in this value is fatally undermined by transnational mobility and attempts by sending states to link up with their emigrants abroad. As a result, ‘the boundaries of human community transcend territorial ones, in a way that citizenship cannot process’ (Spiro 2008: 30). Yet instead of giving up on citizenship altogether, we should
rather abandon a narrow immigration-state-centred view. Taking citizenship constellations as units of analysis may lead to a quite different diagnosis. While neither sending nor receiving country fully controls the opportunity structure and value that their respective citizenships represent for migrants, they jointly produce a set of legal statuses and bundle of rights that are still immensely valuable, especially for mobile individuals, and that do mark important inequalities between different groups of human populations. Toleration of multiple citizenship emerged largely as a by-product of changing norms of international law (Vink and de Groot 2010, this issue), but its huge proliferation in recent years demonstrates exactly how citizenship processes the fact that the boundaries of human communities transcend territorial ones. Specifically, multiple citizenship enables bilateral mobility between states that otherwise control migration flows.

One could still respond that this instrumental value of transnational citizenship will hardly revive its identity value but may instead contribute further to eroding the latter. But in this respect, too, sounding the death knell for citizenship may be premature. Migrants respond to their experience in different ways, some by fully embracing the national identity of their host societies, others by reinventing themselves as national diasporas of their countries of origin, still others by shifting their primary identities towards the local communities where they have come from or where they settle, and a few by identifying as Europeans citizens. From a perspective that focuses on citizenship constellations rather than on immigration receiving nations, each of these identities contains a potential for meaningful membership in a political community and none are necessarily mutually exclusive. Even such potential for citizenship-related multiple identities, however, does not yet respond to the core problem that bothers liberal nationalists: with multiple and overlapping collective identities, how can societies of immigration maintain a cohesive identity based on common citizenship that unites sedentary and mobile populations and makes them willing to share the burdens of democratic government and social justice?

Any response to this question must move from the terrain of descriptive and explanatory accounts towards normative theories of citizenship. I will therefore conclude with a few reflections on trends and new challenges in the normative study of citizenship and migration.

Normative Questions and Perspectives

Liberal political theorists have for a long time debated which principles should guide the attribution of citizenship status and rights and what value citizenship has in an era of world-wide migration. The debate started with Michael Walzer’s assertions that what justice requires depends on shared understandings about the nature of social goods distributed within political communities and that membership is the primary good distributed by such communities. Even liberal states must therefore control the admission of new members in order to maintain their distinct character. The rule of citizens over permanent foreign residents is, however, a form
of tyranny incompatible with liberal democracy. While immigrants have no right to be admitted to the territory, once admitted they must therefore be set on the road to citizenship (Walzer 1983).

Joseph Carens, the liberal theorist whose work has most consistently focused on the ethics of migration, agrees with the latter conclusion (Carens 1989) but rejects the premise that liberal states have a self-evident right to control immigration. ‘Citizenship in the modern world is a lot like feudal status in the medieval world. It is assigned at birth; for the most part it is not subject to change by the individual’s will and efforts; and it has a major impact upon that person’s life chances’ (Carens 1992: 26). A commitment to individual equality of opportunity therefore ultimately requires open borders for migration.

The debate has not moved far beyond these two basic stances. There are those who believe that social justice is primarily a domestic norm that presupposes shared national identities (e.g. Miller 2007) and political institutions that are the addressees of redistributive claims (Nagel 2005). On the other side, global justice theorists point to the increasing interdependence between sovereign states and the density of international regulatory regimes, which entail in their view a shared responsibility of citizens in wealthy and democratic states for the fate of less fortunate populations elsewhere (Cohen and Sabel 2006; Pogge 2002).

This controversy between global and domestic perspectives on citizenship is hard to resolve. Several recent contributions have shifted the terrain towards applied normative theory questions about citizenship in contexts of migration. These can help to test the background intuitions of cosmopolitans and liberal nationalists or to combine both perspectives in proposals for policy reform. I will briefly present three such proposals and conclude with reflections on how a focus on citizenship constellations may be useful for evaluating them.

A first proposal takes Walzer’s argument for citizenship inclusion a step further and turns it against the author’s liberal nationalist premises. Ruth Rubio-Marín (2000) argues that liberal democracies’ fundamental interest to include as full citizens all who are permanently subject to their rule overrides immigrants’ interest to choose their citizenship status. Provided that immigrants can retain a citizenship of origin, naturalisation should therefore be automatic after a certain period of residence. Dora Kostakopoulou has made an even more radical proposal that citizenship status should be replaced altogether by the civic registration of residents for immigrants and native citizens alike (Kostakopoulou 2006, 2008). In both proposals, citizenship would no longer support the idea and collective identity of an intergenerational and territorial national community. Instead of *ius soli* or *ius sanguinis*, *ius domicilii* would become the dominant principle. The political community would be reconstructed as a society of co-residents whose membership changes automatically when they move to a different territory.

A second recent proposal attacks the liberal consensus on citizenship for immigrants itself. From a global utilitarian perspective, domestic inclusion comes at the price of global exclusion. Many more migrants and their family members in
countries of origin might be able to benefit from employment and income opportunities in highly developed states if migrants were admitted only on a temporary basis and with a lesser bundle of rights (Bell 2005). Others have suggested that temporary labour migration may also be preferable from the perspective of social justice for the worst-off native citizens who would then be better shielded from competition by migrants (Chang 2009).

In a third strand of recent publications, Carens’ argument that birthright citizenship in conjuncture with territorial sovereignty creates an unjust global distribution of opportunities has been addressed by scholars who do not plead for open borders, but who try to reconcile imperatives of domestic and global justice through compensating the excluded populations through financial transfers or immigration quotas. Shachar and Hirschl have suggested that citizenship should be seen as a property that creates liabilities for owners towards those excluded from its use (Shachar 2009; Shachar and Hirschl 2007). In a similar vein, Michael Blake and Mathias Risse argue from a principle of original common ownership of the earth that states controlling access to their territory have to compensate those whom they exclude from using its natural resources (Blake and Risse 2006). Eric Cavallero has designed an elaborate system of immigration quotas and development assistance that intends to balance conflicting intuitions about the value of political autonomy with the cosmopolitan premise that ‘[o]ngoing institutions of international law should not systematically disadvantage anyone on the basis of involuntary national citizenship or national origin’ (Cavallero 2006: 98).

Each of these contributions deserves more serious discussion than I can offer here. I will therefore conclude by indicating how thinking about citizenship constellations may provide a useful supplementary framework for addressing these issues. From this perspective, the first idea—to derive citizenship entirely from residence or to replace it by residential registration—fails to take seriously the external dimension of citizenship. Within a citizenship constellation, migrants can be seen as simultaneous stakeholders in countries of origin and settlement (Bauböck 2009a). Regarding a constellation as a citizenship opportunity structure also highlights that migrants differ with regard to their placement within the structure and their individual interests and orientation. There must therefore be considerable room for individual choice between alternative citizenship statuses. Finally, a constellation perspective defends the idea that citizenship is not merely a bundle of rights derived from residence, but also a significant identity that integrates diverse societies with mobile as well as sedentary populations. In this view, citizenship means membership in a self-governing political community that stretches across generations and is attached to a specific territory. In a citizenship constellation such communities are no longer fully separate, but they remain nonetheless distinct.

The second proposal juxtaposes citizenship inclusion with the benefits of temporary migration. Yet this opposition fails to consider that temporary migrants are not pure economic subjects but also individuals with claims to citizenship in their countries of origin. Temporary migration between wealthy democracies, such as the
mobility of EU citizens within the EU, rarely leads to concerns about citizenship, precisely because it occurs within a constellation where democratic citizenship standards are guaranteed at both ends of the migration process. Securing the rights of temporary migrants is therefore largely a question of promoting their citizenship claims in relation to sending countries and combining these with protection as residents under domestic and international law. Temporary migration schemes conflict with a liberal-citizenship perspective only when return becomes involuntary, and this is generally the case when there are large discrepancies in economic opportunities and rights between sending and host states. In this context the principle of citizenship inclusion remains unassailable. Guestworkers who have become long-term residents must be offered access to citizenship. In liberal democracies, trading off equal citizenship among residents for greater economic benefits for potential immigrants is not a defensible proposition.

This argument also casts doubts on the third set of proposals. While global justice may indeed require much more extensive transfers of resources, it is not obvious that importing poor migrants from the poorest countries would be an effective and efficient way of delivering such obligations. A citizenship-constellation perspective nevertheless offers some support to those who argue for freedom of movement as a liberal aspiration rather than as a remedy against global social injustice. Against liberal nationalists who assume that liberal democracy cannot be sustained in the absence of control over territorial admission, we can point out that freedom of movement across state borders in the EU has in no way eroded the distinct identities and citizenships of the member-states. A similar argument applies to multiple citizenship between migrant sending and receiving countries, which is at its core a regime of free movement for a group that has sufficiently strong stakes in both countries. The liberal utopia of global freedom of movement may therefore be best approached by creating the conditions for expanding nested constellations of multiple citizenship in regional unions and overlapping constellations of multiple citizenship for migrants (Bauböck 2009b).

Notes

[1] Linda Bosniak calls these ‘inward-looking’ and ‘boundary-conscious’ approaches to citizenship (Bosniak 2006: 2).
[2] The horizontal overlapping of citizenships caused by migration, and the vertical nested structure of EU citizenship, can then be seen as two instances of a broader expansion of citizenship (Faist and Kivisto 2007).
[3] I adopt this term from social movement studies, where the concepts of political and discursive opportunity structures have been used to explain mobilisations around specific issues (see e.g. Koopmans et al. 2005).
[4] A receiving society bias seems particularly strong in American citizenship studies, even among authors who embrace postnational approaches. For example, Linda Bosniak’s otherwise excellent book on alienage in American law (Bosniak 2006) remains silent about the impact of external citizenship on the legal status and rights of immigrants. A rare exception is Gary Freeman and Nedim Ögelman’s exemplary article that considers how
homeland citizenship policies interact with naturalisation trends in Germany, France and the United Kingdom (Freeman and Ögelman 1998).

[5] Joppke has recently called this a trend towards 'illiberal civic integration' (Joppke 2008).

References


