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Inclusion, Exclusion, and Citizenship: An Overview of European Practice

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Introduction

In an age of cross-border migration, the definition of membership in bounded states is destined to come under close scrutiny. The range of policies and of legal definitions and re-definitions must be considered against a backdrop of diverse developments. In many countries, changing rules of citizenship have allowed for easier access for immigrants; at the same time, access to participation in nearly all sectors of society has been eased for immigrants (Kivisto and Faist, 2007), and the number of states tolerating dual citizenship has grown (Faist, 2007). Scholars and political and social actors are less and less engaged in the major debates, common in the 1980s and 1990s, over ethno-national understandings of nationhood (*ius sanguinis*: blood principle, parental lineage) and legal-rational understandings of political membership (*ius soli*: territorial principle, birthright; *ius domicilii*: residence principle, permanent abode) (Brubaker, 1992; based on Meinecke, 1908). Indeed, ‘we all are republican now’ (Faist, 2007). In place of these debates we find that access to citizenship is increasingly a matter of immigrants’ individual skills, and their political and social competencies—or their willingness to learn them—necessary to integrate in a political community. The larger concerns of collective reciprocity, solidarity and trust seem to be absent from the process, which is evident in the increasing emphasis on human capital in the admission of migrants.

While overall these processes have moved in an inclusionary direction, exclusionary tendencies can be discerned in civil society. This apparent contradiction raises questions about the relationship between state membership and social or community membership, how the two interact, and how this interaction has evolved. Such exclusionary tendencies, which can be seen in most countries, range from religious identification in Europe to linguistic issues in the US (cf. Zolberg & Woon, 1999). There are differences, however, in the ways in which such heterogeneities are dealt with institutionally. One distinguishing feature of religious inclusion, for example, is the extent to which religious organizations are recognized: for example, the corporatist German system sets high hurdles for access of Muslim organizations in public policy, whereas the British system does not require such elaborate institutional inclusion. Another mark of difference in state approaches is the degree to which the rights of citizens are extended beyond civil, political and social rights (Marshall, 1964) to include cultural rights of national minorities (Kymlicka, 1995). Even though ‘multiculturalism’ has been all but re-

jected by most major European countries, cultural rights continue to be debated vigorously and cause conflicts in civil society. In sum, there has been a ‘rights revolution’ underway since the 1960s which is being expressed in changing citizenship legislation—increased tolerance of some form of dual citizenship in almost half of the world’s states, and a shifting view wherein membership based on descent (*ius sanguinis*) has been complemented by birth in the immigration country (*ius soli*). In turn, this increasing liberalization of access to citizenship for migrants in western democracies can be seen as part of a broader shift from ‘ethnic’ to ‘civic’ nationalism.

Still, there is a discernible illiberal counter-trend which manifests itself in two ways: 1) migrants who contribute actively to economic productivity, especially the highly skilled (Faist, 2013), are prioritized; and 2) ‘undesirable’ migrants are devalued and culturalized as the other (Triadafilopoulos, 2011). We also note the increasing significance of ‘securitization’ in migration control and in civic life more generally, increased references to the fiscal, financial and economic crisis with respect to inclusion, and the penetration of economic criteria into the discourse of citizenship policy. To paraphrase Aristide Zolberg (1987), those who are ‘wanted and welcome’ – admitted on the basis of merit—lie at the opposite end of the spectrum from those who are ‘wanted but not welcome,’ immigrants who are admitted for economic reasons but unwelcome for cultural reasons. This binary focus on the extremes omits many other categories in an imagined middle, for example, those categorized legally as asylum seekers or those who immigrate for purposes of family reunification.

Further evidence of this illiberal counter-trend is abundant. After 2001, many countries raised the bar for naturalization by introducing language and citizenship tests, integration courses and citizenship ceremonies (Green, 2012), with clear assimilatory intent. One might question what obligatory civic integration says about liberal-democratic norms and principles being shared by all. Consider, for example, the increasing securitization of citizenship and public concern about the compatibility of Muslim immigrants post-9/11. At the other end of the migration process we see a re-ethnicizing, whereby home country governments promote dual citizenship to foster the affiliation of emigrants to their country of origin (Lafleur, 2013).

Notwithstanding the principles of liberal economies which call for the opening of borders for capital, goods, services and people in the economic sphere, the principles of political communities demand some closure against the outside, thus enforcing a logic of inclusion/exclusion of newcomers (Freeman, 1986, Carens 2013). For political communities, boundaries serve the function of creating a desired social order and lessening the ubiquitous, yet diffuse, threat of violence. Beyond the fundamental Hobbesian idea of social order, the production and redistribution of collective goods for purposes of justice, including welfare, also require a bounded community. In this formulation, the liberty of those within the state can be guaranteed only by the monopolization of power through the nation-state (Tilly, 1990)

and the curtailing of the liberty of individuals falling outside the nation-state (Bosniak, 2008). In short, citizenship is both internally inclusive and externally exclusive, and it is these opposing principles which drive the politics and policies of membership.

1 Policy Shift in the Major Immigration Countries

In the following we present recent developments in several major migrant-receiving countries in Europe: Germany, the United Kingdom, the Netherlands, France and Italy with an eye on the nexus between immigration and citizenship policies.

Germany. In 2000, Germany took a first step to end the complete ban on foreign labour recruitment, established in 1973, by introducing the immediate-action program to cover the IT-skilled worker gap (German Green Card) which offered IT-personnel a five year residence and work permit in Germany (Westerhoff, 2007). This programme was followed in 2005 by the New Foreigner Law that, inter alia, institutionalized the privileged entrance of professionals and also included newly established integration policies, particularly voluntary and in some cases compulsory citizenship and language classes. In parallel, Germany took a major departure from its historically restrictive citizenship access policies by introducing the *ius soli* principle alongside *ius sanguinis* in 2000, making it possible to acquire German citizenship by virtue of birth on German soil, provided one parent had a permanent residence permit. Germany also allowed several exceptions to the policy of rejecting dual citizenship, although it still does not tolerate dual citizenship as a rule, except for other EU member states with which reciprocity agreements apply. Requirements for citizenship acquisition were also lightened, and the general attitude toward naturalization, traditionally considered the most important result of immigration, was revised. The length of the residence period to qualify for naturalization was reduced almost by half, from 15 to eight years. In 2008 it was reduced further, to seven years, for applicants completing integration courses containing a language test (better language skills reduce residence requirements even further, to six years) and a naturalization test to demonstrate knowledge of German society. Even though the civic integration courses and tests would be considered a form of restrictive barrier, they are nevertheless well within ‘the ambit of liberalism’ (Joppke, 2010: 68), as they relate to the individual level, implying they can be met by every individual. Still, given the language requirement, the courses and tests are no doubt used as ‘an instrument for the selection of (more highly)

skilled migrants' (Michalowski, 2010: 191). There are signs that the public discourse, centered for a long time between the dichotomy of the need to create a “welcome culture” for high-skilled, but also for humanitarian migrants, and the fear of “poverty migration” and the loss of the German *Leitkultur* (Aksakal and Schmidt-Verkerk, 2014), is shifting towards a concern about the integration, particularly of successful asylum applicants, into different spheres of the German society.

United Kingdom. In contrast to Germany, the UK has understood itself as a long-term immigration country and often defines itself as a multicultural nation, based on its colonial history and Commonwealth system. Yet since EU enlargement, and especially its eastward expansion, worries about immigration have ballooned. These worries take the form of the oft-repeated narrative about an impending economic decline caused by immigrants taking up jobs that should be given to British citizens and about immigrants' perceived abuse of the welfare system. A climate of exclusion has been created, with the majority of British citizens opposing migration, believing too many migrants enter the UK, and perceiving migration as a problem rather than an opportunity. Public opinion is slightly friendlier when it comes to immigrants with skills required for the functioning of society, such as doctors or nurses (Blinder, 2012).

Government policies and state discourse have played no small role in contributing to the perception of migrants, especially refugees and asylum seekers, as a threat to be averted by strict border protection and to a demand for measures preventing migrants from overstaying their visas or remaining in the country for purposes other than what is stated in their visas (Mulvey, 2010). A recent analysis of the development of highly-skilled migration to the UK between 2007 and 2013 shows that also the number of highly-skilled recent migrant workers (RMW) has significantly decreased in this time frame, particularly from non EU-countries (Rienzo and Vargas-Silva, 2014). One important reason for this trend is the introduction of the Points Based System (PBS) in 2008. Before the system came into force, high-skilled migrants could enter the UK either through the Work Permit System (WPS), requiring a job offer, or through the Highly Skilled Migrant Programme (HSMP) searching for work or becoming self-employed (Zuccotti, 2013).

In line with the stricter immigration policies the British Government defines British citizenship as ‘a privilege and not a right,’ and calls for advanced language skills and knowledge about British culture (UK Government, 2013). In theory, ‘citizenship is more esteemed and valued if it is earned, not given’ (Crick Commission, 2003: 3). The selection criteria for becoming a UK

citizen by naturalization became more rigid in October 2013. Along with some vague characteristics ('good character' and 'sound of mind'), applicants must be 18 years of age or older, willing to live in the UK and pass a test proving knowledge of the English language and life in the UK (UK Government, 2014).

The Netherlands. At one time, in the 1960s and 1970s, immigration was regarded by the Dutch government as a temporary phenomenon: those arriving from Morocco and Turkey, mainly guest workers and their families, were expected at some point to return home. In 1980, a sea change occurred in policies on naturalization and integration of migrants, leading to the creation of the 'Minorities Policy' which was based on the recognition that immigration could often turn out to be a lasting condition and 'immigrant integration would be assisted by a secure residence status, equal rights, family reunification and full participation in education and the labour market' (OECD, 2011:336). In this paradigm shift, the Netherlands defined itself as tolerant and multicultural. Over the last 15 years, however, attitudes changed and this very liberal Dutch approach to immigration and citizenship (compared to other European countries) has been replaced by a narrow and restrictive one (Vasta, 2006). Among Dutch citizens holding populist views, the fear was that the laissez-faire attitude was endangering 'native Dutch' values and it was thought that many citizens were unwilling or unable to integrate. The 2002 murder of the anti-immigrant party leader Pim Fortuyn and the 2004 murder of filmmaker Theo van Gogh, known for his Islamophobic statements, escalated anti-immigrant sentiment among the self-defined 'autochthonous' parts of the Dutch population.

As elsewhere, these developments were mirrored at the policy level. The conservative government, elected in 2002, introduced the requirement of an immigration (culture and language) test to qualify for a visa. Unlike the integration courses offered since 1998, organized and financed by the Dutch government, the new test is offered by private institutes and paid for by the immigrants. Immigrants who fail the test or do not pass it in time are faced with fines and residence status sanctions (OECD, 2011). Prior policies promoting 'naturalization as a right' for children of immigrants born in the Netherlands and the right to obtain dual nationality, established in 1984, resulted in a peak of applications for citizenship in 1996. In response, in the context of a more critical policy and public debate on immigration, this right was revoked by the introduction of a naturalization test in 2003 framing Dutch citizenship as 'something to be proud of, not a consumption article' (OECD, 2011: 340).

France. The republican principle underpins approaches to nationality in the French case, with nationality intricately connected to a confirmation of political values (Nicholls, 2012). From 1899 until 1993 the double *ius soli* principle of citizenship acquisition was in effect. That principle ensured the third generation (both parents born in the country) was automatically naturalized, while the second generation (at least one immigrant parent) was naturalized upon reaching maturity. French republicanism is related to a version of laicism, which can be seen in such cases, for example, as the outlawing of headscarves in schools, in 2004. In another case, in 2008, the highest court (Conseil d'État) denied a burka-wearing woman French citizenship because of 'insufficient assimilation,' a clear reflection of the fear of the destruction of republican ideology (Lefebvre, 2010). In another policy move, under Interior Minister Nicolas Sarkozy in 2003, a compulsory integration course was introduced, emphasizing language training and knowledge about institutions and values of the French republic. It was assumed that completion of this compulsory course meant establishing a 'relationship of trust and mutual obligation' between the individual and the state. The government has since gone a step further in passing the law of immigration and integration, making civic integration courses obligatory to obtain a one-year, renewable resident permit. After two years, immigrants can apply for a ten-year permanent residence card. As former president Sarkozy put it, the law facilitates a fundamental change in immigration policies from the 'unwanted' (*subie*) to the 'chosen' (*choisie*).

Italy. Since the end of the recruitment of Italian workers by Northern European countries in the early 1970s, Italy has experienced a shift from mainly being an emigration country to being one of the most important immigration countries in Europe (Paparusso et al., 2016, Tin-tori, 2013). This trend has been reinforced during the current humanitarian crisis, as a consequence of which in 2015 almost 154,000 refugees and asylum seekers from various countries arrived at Italian shores (UNHCR, 2016).

While immigrants are thus becoming an increasingly important part of Italian society in terms of numbers, and although the government has started to recognize the potential benefits of immigrants for the Italian economy and for the labor market, they are still considered unwanted and not welcome in society, which is expressed through the strict immigration and deportation laws (Paparusso et al., 2016; see also Ambrosini 2013).

The first groups of migrants arriving in Italy in the 1970s to 1990s consisted particularly of Albanians, Moroccans and Tunisians, while migration from Romania and China has recently gained importance. This migration history is reflected in the number of naturalizations, of

which Moroccans and Albanians occupy the highest share. The acquisition of Italian citizenship was for a long time mainly based on marriage, a trend that changed in 2009 after new legislation which held that marriages have to last two years instead of formerly six months before the foreign partner could apply for Italian citizenship. At the same time, the number of people granted citizenship based on their time of residence in Italy (10 years for non-EU nationals) has significantly increased. Once granted, it allows the unconditional acceptance of dual citizenship (Tintori, 2013).

However, access to Italian citizenship is considered more difficult than in other major immigration countries, due to the strict eligibility criteria. In addition, second-generation migrants are not granted citizenship upon birth in the country. These strict immigration and naturalization policies may be interpreted as a reflection of the perception of the Italian government of migration as a temporary phenomenon and the negligence of the need for integration policies and measures (Paparusso et al., 2016).

Other countries. Generally speaking, rich, industrialized and democratic countries welcome highly qualified workers, who are thought to possess sufficient financial and human capital to move. The new mobile cosmopolitans, mainly highly skilled young urban populations, are recognized as a distinct type of migrant: ‘Eurostars’, for example, are young persons who are mobile within the European Union (Favell, 2008). Temporary mobility to the EU of high-skilled professionals from tertiary countries has since 2011 been facilitated through the implementation of the EU Blue Card, which grants its holders the right to work and live in an EU member country, provided that certain conditions related to the job and the income are met. Unlike many migrants who establish long-term or permanent links to their destination countries, migrants such as these who come from rich countries are less interested in naturalization in other rich countries, and their migration intentions are often temporary and circular. Circular or temporary mobility of this nature is easily explained for citizens of EU member states: Because migrants working or studying in other EU countries enjoy the same civil and social rights as national citizens, their rate of naturalization is understandably low. Moreover, for the internationally mobile, highly skilled migrants—those who are wanted and welcome—there is less of a legal necessity to obtain citizenship of the destination country, since they usually do not plan to stay in the destination country for an extended period. For many, citizenship in the host country is neither desirable nor necessary, while for migrants from poor countries, acquiring citizenship of rich countries remains important (see Rutter et al., 2008 for the UK). A main benefit of immigration country citizenship, and implicitly dual citizenship, is the ability to travel with fewer restrictions, such as the need for a visa

2 Citizenship beyond the National State

It has been noted empirically that citizenship is becoming increasingly unbundled. Identity, political participation rights and social benefits which were once grouped tightly together under the rubric of national citizenship are, in a number of circumstances, today being disaggregated, and re-assembled in new ways. It is not at all uncommon now to see several partially overlapping, partially competing, governance structures with diverging membership criteria existing within a single territory. An example of this phenomenon can be seen in the fact that certain non-citizen residents have voting rights in some municipal elections in Europe. There is conflicting opinion about this disaggregation: Some see in it a sign that democracy is ending in the name of transnational capital, labour and consumerism; others suggest that one can also locate in such a disaggregation a site for a pluralist cosmopolitan federalism of the sort that Immanuel Kant advocated (Benhabib, 2004).

A fundamental question to consider, given these shifting circumstances and attitudes, is whether citizenship can fruitfully be conceptualized beyond the national state or, put another way, and as, for example, Bryan Turner argued (1993), whether citizenship can be transnationalized. (There may be some conceptual stretching if the answer is yes.) Yet a third view rejects both positions and argues that the unbundling of rights, territories and authorities does not lead to a juxtaposition of old, national forms with new, supranational or even global forms of citizenship because supranational and global processes mainly work through a re-configured national state (Sassen, 2006). These arguments notwithstanding, there are two identifiable forms of citizenship reaching beyond and below the national state. The first is overlapping, best visualized in citizenship as circles which overlap each other—dual or multiple citizenship in national states is a prominent example. The second form is nested, consisting of concentric circles: a person may be a citizen of Lisbon, Portugal and the EU.

Dual Citizenship: In immigration countries dual citizenship is usually legitimated by positing that legal equality should be a prerequisite for substantive citizenship, that is, full participation in economic, political and cultural life, in the place of residence. Instrumentally, the claim hinges on the observation that those states tolerating dual citizenship have proportionally more immigrants who have naturalized. These arguments follow upon the understanding of citizenship as a human right. First, in international law, this is increasingly the case, to take the example of stateless persons (Chan, 1991). Second, the human right to gender equality, which became enshrined in international law in the Convention on Nationality for Married

Women in 1957, and later found its way into the laws of national states, has implications for citizenship equality. According to this body of law, women do not have to cede legal citizenship when marrying a spouse of another nationality. Furthermore, a Convention of the Council of Europe (1993) enables children from bi-national marriages to have dual or multiple citizenships. Broadly considered, countries with significant shares of emigrants have adapted their citizenship laws in the direction of greater tolerance of dual citizenship among their citizens abroad. It should be noted, however, that in such cases the above-mentioned factors have played a less important role than maintaining and re-forging ties to (former) citizens abroad (e.g. Górný et al., 2007). Third, normative problems of legitimation arise if immigrants with permanent residency are denied access to citizenship in the long run (Walzer, 1986: 31-63).

The increasing toleration of dual citizenship is reflective of multiple belonging, whereby insertion in the country of settlement is not necessarily accompanied by dismantling ties to the countries of origin. Affiliation to transnationally connected families, religious communities and transnational networks of entrepreneurs is, thus, not an anomaly, but one of many pathways to incorporation (Faist & Gerdes, 2008).

Dual citizenship has different implications depending on the structure and design of the respective political systems. Dual citizenship enters the picture, above all, from the acquisition of citizenship at birth—from parents with different nationalities or a combination of *ius sanguinis* transmission by state of origin and *ius soli* acquisition in the state of residence. Moreover, it is increasingly the case that dual nationality through naturalization does not involve renouncing previously acquired legal citizenship. While dual citizenship may raise certain problems, violation of democratic principles is not one of them, despite that fact that some will argue that it violates equality of representation by giving people two votes. Even assuming they can also vote by absentee ballot in the country where they do not reside at the moment, dual citizens still have one vote only in each election. These separate votes are never aggregated in the process of electing representatives or in a referendum. Dual citizens have a stake in two different states, but their votes do not count twice in any decision. This is different in federal states, such as the US, or in proto-federal systems, such as the European Union (EU). If a resident of both Germany and France were enfranchised in both countries for elections to the European Parliament, her vote is counted twice in determining the representation of these countries (more precisely, districts of these countries).

European citizenship: The divergence between social and political citizenship, which has been observed empirically, has led to a wider, far-reaching debate on the nature of contemporary citizenship. The debate is rooted in the notion that permanent residents may have access to virtually all social rights, yet be barred from the right to vote because they are not *de jure* citizens, that is, citizens in the full legal sense. One branch of the discussion concerns the concept of post-national citizenship, which has direct relevance for the EU and national states because it puts the focus on the increasing role of genuinely inter- and supra-state policies and rights. Post-nationalists claim that human rights have come closer to citizens' rights; in their view, liberal-democratic states have increasingly come to respect the human rights of persons, irrespective of their citizenship (Soysal, 1994). Indeed, states have granted rights to certain groups, thereby conferring on them the status not of citizens (yet) but of denizens – immigrants holding permanent residence status, including virtually all civil and social rights. The practice of conferring denizenship counteracted one of the main trends of national state citizenship, which privileged the binary opposition of “citizen” versus “alien,” in contrast to the complex relationships between individuals and communities in *ancien régime* societies (Fahrmeir, 2007). Denizenship implies that aliens acquire rights that have formerly been the prerogative of citizens (Hammar, 1990). These categories of people include permanent residents in the member states of the EU, that is, citizens of third states (*extracommunitari*) holding the citizenship of a non-EU country. In effect, supra-state institutions such as the European Court of Justice (ECJ) have developed common rights for all residents. For this reason, today there are few differences between denizens and citizens of EU member states in the matter of social rights. Nevertheless, writers in the post-national vein have little to say about citizens, as the focus is on the divergence between rights and identity, not about democracy. They are mainly concerned with the closing rights gap between denizens and citizens (Jacobson, 1996), and tend to disregard the very foundation of citizenship, equal political liberty.

It is useful to view supranational citizenship within a framework of nested citizenship (Faist, 2001). The concept of nested membership is a way of understanding the notion that membership in the EU has multiple sites, and there is an interactive, dynamic system of politics, policies, and rights between the sub-state, state, inter-state and supra-state levels. The web of governance networks allows for enshrining (currently a few) new rights on the supra-state level, interconnecting them with pre-existing ones, and – above all – re-adapting or harmonizing rights and institutions in existing member states. It is unlikely that in the near future the EU will become a federal political system like those found in its member states. Thus, while we cannot speak of EU citizenship as full-fledged federal citizenship, nevertheless what has evolved in the EU is an extraordinarily intricate network of overlapping authorities and at-

tendant rights. As it stands now, EU (social) citizenship has not made up for what many citizens in member states as national welfare states have lost in the wake of massive economic liberalization (Streeck, 2015).

The specific characteristics of nested citizenship are as follows. First, nested membership suggests multiple levels. The political actors – including sovereign member states, the EU Commission, the Council of Ministers, lobby groups and citizens' associations – are involved in activities at different levels.

Second, European Union citizenship is devoid of morally demanding social rights, such as those involving re-distribution of funds. Such rights would require support by strong social and symbolic ties of generalized reciprocity and diffuse solidarity, ties that are usually limited to collectives which are much narrower than the category 'European people' as a whole. For example, generational reciprocity in pension systems does not reach from Finland to Portugal. Still, this is not to say that the EU has not had an impact on social rights. Take the realm of national health services, for example, where EU rules have conditioned the options of national welfare states. But as it stands, the EU has implemented new rights only in limited areas, such as the rights of mobile citizens of EU member states, in the sphere of gender equity and regarding health and occupational safety.

Third, nested citizenship is a form of federative membership, which is distinct from simple coexistence of different levels. European Union citizenship as a whole is sited in various governance levels, with the result that there can be no smooth evolution or transition of nested citizenship to a truly federal citizenship. Member-state sovereignty in the matter of granting citizenship carries far-reaching implications for the slow evolution of a more coherent EU citizenship, and the resistance of member states against it. The issue of free movement provides a number of examples: Argentinians with Spanish or Italian ancestry might have reclaimed the citizenship of their ancestors and moved to the EU – but not necessarily to their country of citizenship in the EU. Hungary has extended citizenship to co-ethnics in Serbia, and Moldavians have access to Romanian citizenship, with the result that European Union citizenship and its associated mobility right has been conferred at the same time. In all these cases member states in the EU other than the ones mentioned could (have) object(ed). Cases like these and others are one of the factors slowing down the unification of citizenship within the EU. The ability of member states to regulate admission to state citizenship stands in stark contrast to their growing inability to define who is considered a 'worker' and thus able to cross borders freely and engage in economic activities. It becomes evident that access to member-state citizenship is an instrument wielded by the now semi-sovereign states to fend off continued encroachment of EU case law upon access to their labour markets. Having lost

their sovereignty with respect to the free movement of labour, member states jealously guard their exclusive right to naturalization.

The fourth characteristic of nested citizenship is that it cannot be thought of as membership that is guided by a coherent or even centralized centre of political authority. In distinction from citizenship in federal political systems, such as the Federal Republic of Germany (not to speak of unitary systems), the highest level of nested citizenship (EU) should not be understood as the primary centre of political authority standing above the sub-state systems. The multi-tiered governance network of the EU is better understood as a loose proto-federal system.

3 Conclusion

While there may be widespread tendencies toward re-ethnicization, rules of acquisition for citizenship depend less on ethnic criteria. This is not to say that exclusionary tendencies are less pronounced. Rather, they have changed shape to focus on economic competitiveness and cultural modernity. The imposition of new rules for access to citizenship and more restrictive immigration rules, applying not only to labor migrants but also to asylum seekers and refugees, is strong evidence for this conclusion. Also, the EU has not compensated for economic liberalization it brought about. It has not yet built robust social rights.

The debate thus focuses less on the ethnic vs. civic distinction in the legal status dimension of citizenship and more on the normative realm of the political community, making it important to take note of the shifting boundaries of the political sphere, which in turn takes us far beyond the migration field to touch on the principles of democracy. The liberalization or restriction of citizenship and the implications for state-citizen relations are often discussed within the context of the withdrawal of the nation-state and the erosion of social rights. The loss of a meaningful citizenship is documented by research noting the perpetuation of negative rights (protection rights against the state) and the decline of positive rights (the state must actively provide material and other resources to realize these rights), changes brought about by government policies adopting and enforcing a civic and liberal universalistic orientation. As various authors have observed, the new social project in Europe favors a citizenship model that privileges individuals as bearers of human capital and makes a close connection between work, economic productivity and social justice (Münch, 2012). The free-floating individual in the market sphere is able to enjoy a contract with a nation state only if she contributes to the community and is not a burden to the social welfare system. By the same token, individual migrants are evaluated as bearers of human capital—as is evident by the spread

of point systems in European immigration laws to favor young, highly skilled immigrants (Boucher & Cerna, 2014).

In light of these changes in the European social project, it appears that liberal democratic states are not per se directing policy or discourse against foreigners but against a specific type which seems incompatible with liberal ways of life. Openly discriminatory group-level exclusion in the selection of immigrants has given way to an individualistic skills approach, along with criteria based on human rights, such as family reunification and asylum. The blurring of racial, ethnic and religious boundaries is enforced by a human rights discourse that stigmatizes group-level exclusion, but sanctions individual-level exclusion based on language, culture and human capital.

The nation state that relies on and enforces liberal norms and universalistic rules can legitimately demand loyalty to the inside and autonomy and support to the outside. Paradoxically, this represents both a liberalization of citizenship law and a liberal cultural discrimination of immigrants at the lower end. Empirical research must consider the management of this tension, including how nation states incorporate universalistic norms, for example, through marketization at the upper end of the social status of the immigrants which then becomes the norm to create identity and difference.

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