

IMMIGRATION AND THE BOUNDARIES OF CITIZENSHIP

Rainer Bauböck

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Abstract

This paper proposes that the concept of citizenship refers to the equality and universality of civil, political and social rights within a political community. In our world of nation-states, the universalism and egalitarianism of citizenship is limited by external and internal boundaries. After the enfranchising of propertyless classes and women the most conspicuous remaining boundaries are those of nationality, which are legally codified as nominal citizenship. However, rights of citizenship are no longer totally confined to those individuals, who are formal members of a state. Human rights, rights of legally immigrating aliens and rights of long term resident foreign citizens can be seen as a gradual expansion of citizenship beyond the national and territorial boundaries of the original concept. Even regarding immigration, there is reluctant recognition that the right of the nation-state to regulate admission according to its own judgement and interests, may be restricted by rights or compelling needs of individuals to be admitted. International migration creates a new context for the formulation of citizen rights. This paper proposes a frame for analysing different positions of citizenship and establishing normative guidelines for policies of reducing these differences. Expansion of 'denizenship', i.e. the rights of long term resident aliens, establishing a right of naturalisation and access to dual citizenship emerge as the most important policies of an equalization of citizenship.

Zusammenfassung

Dieser Text versteht sich unter dem Begriff 'citizenship' die Gleichheit und Universalität von zivilen, politischen und sozialen Rechten innerhalb eines politischen Gemeinwesens. In unserer Welt von Nationalstaaten wird der Universalismus und Egalitarismus von citizenship durch äußere und innere Grenzen beschränkt. Nach der politischen Gleichstellung der eigentumslosen Klassen und der Frauen sind die auffälligsten verbleibenden Grenzen jene der Nationalität, die gesetzlich als Staatsbürgerschaft kodifiziert werden. Citizenship-Rechte werden jedoch nicht mehr ausschließlich jenen vorbehalten, die formell 'Mitglieder' eines Staates sind. Menschenrechte, Rechte legal einwandernder Ausländer und Rechte niedergelassener Einwanderer ausländischer Staatsbürgerschaft können als eine schrittweise Erweiterung von Citizenship über die nationalen und territorialen Grenzen des ursprünglichen Begriffes hinaus gesehen werden. Sogar hinsichtlich der Einwanderung kann man eine zögernde Anerkennung beobachten, daß das Recht des Nationalstaates, die Zulassung zu seinem Territorium nach eigenem Gutdünken und Interesse zu regeln, eingeschränkt werden kann durch Rechte oder zwingende Bedürfnisse von Individuen, zugelassen zu werden. Internationale Migration schafft einen neuen Kontext für die Formulierung von Bürgerrechten. Dieser Text schlägt einen Rahmen zur Analyse unterschiedlicher Positionen der citizenship und zur Fundierung normativer Prinzipien für eine Politik der Reduzierung solcher Differenzen vor. Die Erweiterung von 'Wohnbürgerrechten', d.h. der Rechte niedergelassener Ausländer, die Durchsetzung eines Rechtes auf Einbürgerung die und Zulassung von Doppelstaatsbürgerschaften erweisen sich als die wichtigsten Maßnahmen einer Politik der Egalisierung von citizenship.

"Freedom, wherever it existed as a tangible reality, has always been spatially limited. This is especially clear for the greatest and most elementary of all negative liberties, the freedom of movement: the borders of national territory or the walls of the city-state comprehended and protected a space in which men could move freely. Treaties and international guarantees provide an extension of this territorially bound freedom for citizens outside their own country, but even under these modern conditions the elementary coincidence of freedom and a limited space remains manifest. What is true for freedom of movement is, to a large extent, valid for freedom in general. Freedom in a positive sense is possible only among equals, and equality itself is by no means a universally valid principle but, again, applicable only with limitations and even within spatial limits. If we equate these spaces of freedom ... with the political realm itself, we shall be inclined to think of them as islands in a sea or as oases in a desert. This image, I believe, is suggested to us not merely by the consistency of the metaphor but by the record of history as well." (Hannah Arendt: *On Revolution*, London 1963, p.279).

1. Basic features of citizenship

This paper intends to challenge the view expressed by Hannah Arendt in the above quotation¹. That freedom can only survive within boundaries and that its maintenance restricts freedom of movement is certainly not only her opinion but a belief shared by most political thinkers of the past and the present. For those in the liberal tradition it is not freedom itself that has to be limited, but citizenship, i.e. the membership of a political community based on equal rights. My objections will focus on the following arguments:

¹ Arendt repeated and elaborated this idea on several other occasions (cf. Arendt 1958, pp.63f., pp.191 ff., Arendt 1970, pp.81f.).

- Citizenship should not be identified with formal membership only, but must rather be seen as a bundle of rights that can transcend the boundaries of the political and territorial entities, in whose political institutions these rights are embodied.
- Immigration rights can be an element of citizenship and the citizen status of immigrants strongly depends on whether immigration rights have been conceded to them.
- Extending immigration rights beyond previous borders is an essential feature of fusion processes, in which new and larger communities of citizenship are formed.
- International migration creates a context, in which an equalization of citizen statuses and extension of immigration rights emerge as political imperatives from the basic principles of democratic citizenship.

1.1. The narrow and the broader concept

The term citizenship has different meanings when translated into different languages. 'Staatsbürgerschaft' in German stands for a purely nominal relationship between an individual and the state without reference to specific rights. The concept of 'Citoyenneté' in French stresses a content of citizenship, consisting in a bundle of rights. In English and French the notions of 'nationality' and 'nationalité' are often used as equivalents to 'Staatsbürgerschaft' and could help to distinguish the nominal relationship and its specific content. However, these words refer to the concept of nationhood, which in my opinion should be deliberately separated from the concept of citizenship for political and analytical reasons. A more practical concern arises, when we deal with multinational states, where it is not conceivable to use this term in the same way--one can be a Soviet or Yugoslav citizen, but certainly not a 'Soviet or Yugoslav national'. The British notion of a 'subject' might serve as an alternative term in these cases. However, it does not express the neutrality of 'Staatsbürgerschaft', but refers to the idea that

sovereignty ultimately lies with the crown and not with the people.²

For lack of a better solution I will use the word citizenship generally in its broader meaning of 'citoyenneté'. In those contexts, where the text refers to 'Staatsbürgerschaft', this will be translated as 'nominal citizenship'.

Most recent authors on citizenship and immigration in English language are fully aware of this double meaning, but make a different choice of terminology. The most elaborate one has been proposed by Tomas Hammar (1990), who distinguishes citizens (referring to nominal citizens only) and denizens (permanent settlers or long term immigrants enjoying a specific bundle of rights which distinguish them from aliens). I shall also use this terminology in a later section of the paper, but only after a broader notion of citizenship has been introduced, which encompasses denizens and to some extent even aliens. In this paper denizenship is not an alternative status to citizenship but a specific status of citizenship. The principal reasons for this will become clear later, but there are some very pragmatic ones, too:

- The relation between citizens and denizens does not correspond to the relation between citizenship and denizenship. While nominal citizens are a completely separate category from aliens plus denizens, denizen rights are generally only a subset of citizen rights. If we are primarily concerned with the nature of rights and not with the classification of persons, nominal citizenship and denizenship are only different expressions of a single phenomenon.
- There are few conceptual problems in separating nominal citizens from denizens, but it is less easy to distinguish denizens and aliens, as in most countries the status of denizen is not clearly defined and can be attained only gradually and according to

² In German 'subject' literally translates as 'Untertan', which expresses the submission of citizens to a higher state authority and would normally not be used for constitutional democracies.

different criteria for different sets of rights. As Layton-Henry points out: "There is no sharp distinction between the rights enjoyed by citizens and those of non-citizens ... there is something like a continuum of rights between members of European states, from those with almost no rights to those with all the rights and privileges of citizenship." (Layton-Henry 1990, p.189).

- Nominal citizenship in some cases is not equivalent to full citizen rights. Naturalised immigrants may still be excluded from some rights restricted to persons who are nominal citizens by birth (in France such rules of incapacitation and ineligibility were in force until 1983; in the United States only a citizen born in the USA can become president; in the UK there are three different categories of citizens according to the 1981 nationality act, which are mainly distinguished by different immigration rights).

1.2. Citizenship and nationalism

William Rogers Brubaker points out that citizenship is not only a formal status but also implies a normative model, which is strongly modified in its applications in real politics. As this is the same approach that I would like to propose, it is important to stress the points where I do not agree with his exposition. Brubaker thinks of citizenship in terms of social and political membership and gives six criteria which are incorporated in the normative model. Membership should be:

- a) egalitarian
- b) sacred
- c) national
- d) democratic
- e) unique
- f) socially consequential

These criteria are explained in the following way: a) gradations of membership status are inadmissible; b) citizens should be prepared to make sacrifices and their attitude towards membership should not be 'profane' and calculating; c) the political community should be simultaneously a cultural community; d) full membership should carry with it significant participation in the business of rule and over the long run, residence and membership must coincide; e) every person should belong to one and only one state; f) membership should be expressed in a community of well-being; it should be objectively valuable and subjectively valued. (Brubaker 1989a, pp.3 f.)

I would like to maintain that only three of these criteria, namely a, d, and f, relate to citizenship and the rest is implied in the concept of nationhood and in the ideals of nationalism rather than those of citizenship. While Brubaker himself points out contradictions between some of these principles and deviations from each of them in the case of immigrants, he fails to see that there could be one fundamental underlying contradiction between principles of citizenship and of nationalism.³

The basic difference between the two sets among the six criteria is the following: Whereas egalitarianism, democracy and social rights may always be limited to members of a community, these principles themselves do not define limits to membership, but only refer to rights that are implicit in citizenship. Sacredness, cultural homogeneity and uniqueness of membership, however, are not about rights, but about limitations of membership. Persons who

³ In Tomas Hammar's book (1990) this contradiction between nationalism and citizenship is the central issue, and my own thinking has been strongly influenced by his ideas. As I see it, the limitations of Hammar's approach lie in his neglect of the way, nationalism confers almost unquestionable legitimacy to external boundaries of citizenship and thus denies the possibility of an extended citizen right of immigration. My questioning of external boundaries has also an empirical background. Denizenship seems to evolve only after the West European immigration stop (except for family reunification and asylum seekers) after 1973. However, more recent waves of immigration from the South and East have challenged established forms of immigration regulation. This new situation should urge us to look for a novel approach towards rights of migrants, which does not take for granted the capacity of states to police their borders effectively.

are not committed to the community, who are culturally different or who are already members of another community, may be legitimately excluded from membership.

The three criteria b,c, and e are not relevant to nationalism alone but have been important in different degrees for pre-national forms of citizenship as the Roman or Greek ones as well. Sacredness is probably the quality most universally ascribed to citizenship in very different political systems. However, sacredness quickly erodes, once choices between different positions of citizenship are opened. In modern societies profane and rational attitudes towards citizenship, in which benefits are weighed against losses, are confronted with attempts to maintain or revive the sacred nature of the bond between individual and nation-state.

Uniqueness of membership has been of varying importance, too. In the past, plural citizenship was mostly ordered in concentric circles. One could be a citizen of a local community and of a larger empire. Both forms of membership mostly had very different contents and the affiliation to the larger political entity was not always the stronger one. A second form of plural citizenship emerged from the weakness of citizen rights and the instability of state borders. In a world of strict territorial rule, determining the formal state membership of subjects was often seen as neither possible nor particularly important. Uniqueness of citizenship has been a special concern for modern nation-states in their attempts to subordinate internal local and regional affiliations to the national one and to exclude allegiances towards more than one state. In the present we can observe attempted revivals of regional citizenships which are closely connected to processes of transnational economic and political integration and a strong increase in double nominal citizenship.

The main variation is, however, in the relevance of cultural homogeneity, as Ernest Gellner has convincingly argued (Gellner 1983). Before the industrial revolution larger states mostly presented a pattern of extreme internal cultural diversity, which was often consciously reinforced by policies assigning different

statuses to corporate groups in an extended cultural division of labour. The depth and geographical extension of cultural homogenisation within modern nation states is unprecedented in history. The contemporary discourse on multi-culturalism indicates that the attachment of citizen rights to cultural closure is increasingly challenged. But it has still remained the most important criterion for legitimate exclusion from citizenship, while others relating to class, gender, and race have been gradually delegitimized.⁴

This paper is part of a project exploring the impacts of migration on citizenship and the impact of nationalism on the formation of new ethnic minorities among immigrants. The aspect of ethnicity is beyond the scope of this presentation and the relation between nationalism and citizenship will only be briefly examined.

The difference between both can be expressed in a formidable paradox: While the immanent principle of citizenship is universalism, citizenship has so far only been realized in a very particularistic way--while the basic principles of nationalism are particularistic, nationalism is truly universal in the global political system. Virtually all large political entities representing a sovereign state or claiming to be capable of forming sovereign states, conceive of themselves as nations, but among these many nations only a few formally embrace principles of citizenship and even in those their application is severely restricted.

Whereas most writers on the subject say that citizenship is inherently limited by its own principles, I contend that nationalism provides the basic legitimation for the internal and external exclusiveness of the modern, liberal, western type of citizenship. That does not imply that such limitations can never

⁴ Class, gender, and race still constitute the strongest boundaries within modern societies, but in most states they cannot be used any longer to confer legitimacy to distinctions of rights. This does not imply that there is effective equal citizenship beyond these dividing lines not that equal citizen rights must necessarily ignore such social boundaries. I shall argue later that citizenship can also establish claims for collective rights against social discrimination.

be justified, but justification always has to rely on criteria external to those legitimizing citizenship itself.

1.3. Citizenship as membership?

Many authors think of citizenship in terms of membership. There are two different notions involved in this: membership of a state, and membership of a society. My contention is that both cannot capture the essential features of citizenship.

Each of the two forms of membership can again be split into two different connotations. Membership of a society can be either defined in ascriptive or non-ascriptive terms and similarly membership of a state can be seen as either voluntary or involuntary.

In an anthropological sense, membership of a society usually refers to criteria like birth within a society, descent from other members of society or cultural assimilation to the values of a particular society. A member is someone who is recognized by others as sharing with them some essential features of biography and culture. In modern societies there also emerges a different and much looser idea of membership, based on participation. A member is a person who predominantly interacts with other members of the same society and is tied to this society by his or her interests. Neither of these two meanings in any way refers to specific rights an individual enjoys as a member. One can obviously be a member in both respects without being a citizen.⁵

⁵ In an unpublished paper, Heisler and Schmitter-Heisler propose a broader notion of citizenship, which goes beyond the formal, legalistic elements. (Heisler & Schmitter-Heisler 1990, pp.4f.). Although there is no precise definition of this broader citizenship in their paper, it seems to refer primarily to effects of state policies on society on the one hand and to channels of participation in policy-making on the other. This approach is halfway between a broad notion of social membership and a narrow one of nominal state membership, but it deliberately plays down the crucial issue of equal rights and largely replaces it with a vague notion of representation of interests. The authors specifically refer to the position of immigrants, who are excluded from formal citizenship but nevertheless have different ways to

Michael Walzer analyses membership of a state by exploring the analogies of neighborhoods, clubs, and families (Michael Walzer 1983, pp. 35 - 42). His argument for the right of states to control immigration is based on the analogy with clubs. However, the right of clubs to restrict admissions can only be justified by the voluntary nature of membership, which does not apply to the state. "The state is not and cannot be a voluntary association" (Brubaker 1989b, p. 102). This is also true for the right of clubs to decide on their own internal rules. They may decide to set up hierarchies, in which internal rights of members are highly unequal as long as membership is voluntary and the aims and actions of the club comply with general legal norms. Clubs are even relatively free to decide on expulsions of their members.

Freedom of association is itself an important civil right, guaranteed and limited by the state. But it only applies within societies governed by states and not to states themselves. It is a right of non-interference by the state into civil society. Ideally freedom of association rests on the assumptions that nobody can be forced to become a member of an association, that every member is free to leave an association, and that everybody is entitled to join with others and set up a new association. The first and the third assumption are obviously not true for membership of a state. Apart from some forms of naturalisation, most people do not acquire this membership voluntarily and setting up a new state is neither a right nor a practical possibility for most individuals and groups. The second element (the right to emigrate) has been frequently violated by many states, but even where it is guaranteed, it is hardly sufficient reason to conceive state membership as voluntary. Individuals can have much stronger interests to stay within a state than within a voluntary

articulate their interests. Such possibilities of extra-electoral political participation for immigrants are also stressed by M.J. Miller (1982, 1989). Even if Miller's account were not overstated, the basic flaw in Heisler's & Schmitter-Heisler's argument remains the confusion of channels of influence with citizenship. If the exclusion of immigrants from voting rights is justified in this way, one should be aware that the same argument would also have applied to other previously disenfranchised groups like women or workers.

association. This gives them a more substantial claim to internal equality of rights. Individuals can also have strong interests to immigrate into a state (e.g. asylum seekers or dependents of earlier immigrants)⁶ and this must restrict the right of exclusion compared to voluntary associations. Walzer's analogy may be useful for empirical observations--states often do impose similar restrictions on membership as voluntary associations--but it cannot be applied to the normative question of justification.

So membership of a state is involuntary in most respects, even in those states claiming to be liberal democracies. However, citizenship in its broader sense is certainly not forced upon those who enjoy it. This is why membership of a state is not an adequate translation for citizenship, once we go beyond its nominal meaning.

This conceptual discrepancy becomes obvious in the case of immigrants who have not been naturalised. They may be granted many citizen rights without being members of the state which concedes these rights to them.⁷ This might lead us back to defining citizenship as non-ascriptive membership of a society. But citizenship is a specific feature of the political sphere and not of society in general. It must be embodied in political institutions which do not exist in all societies.

There is another reason, why membership cannot be used as a synonym for citizenship. The former has a dualistic or binary quality to it. Either you are a member or you are not. The concept of citizenship, however, can be used in a more flexible way, permitting for different levels of rights and inclusion. Brubaker claims: "Citizenship is a neat category... membership, in contrast is a messy category." (Brubaker 1989a, p.15). In my understanding

⁶ This is also recognized by Walzer, who later argues that the "control of territory opens the state to the claim of necessity" (of aliens) (Walzer 1983, p.44) and that the right to control the admission of strangers must be modified by a principle of mutual aid.

⁷ "...Immigration has rendered obsolete the accepted definitions of membership in, and citizenship of, a modern state." (Layton-Henry 1990, p.186).

just the opposite is true. If citizenship is not restricted to its nominal content, this is the 'messy category' and that is its advantage as an analytical concept over the all too neat category of membership. Joseph Carens captures the essential characteristics of citizenship much better, when he refers to it as a threshold concept (Carens 1989, p.42). There can be more thresholds than just the one connected with nominal citizenship. What is essential, is the ascending order of statuses separated by these thresholds and their culmination in full citizenship.

1.4. Normative and analytical definitions

Citizenship designates a political status of individuals as well as a particular quality of a political system.

As a normative concept citizenship is a set of rights, exercised by the individuals who hold the rights, equal for all citizens, and universally distributed within a political community, as well as a corresponding set of institutions guaranteeing these rights.

This definition is very similar to T.H.Marshall's in his classic account of the evolution of citizenship (Marshall 1963, p.78). There are two differences between Marshall's approach and mine which should be mentioned. The first is almost purely thematic in nature. Marshall was concerned with the different types of rights, included in citizenship and I will use his distinction between civil, social, and political rights in this paper, too. I think it is conceptually more advanced than later contributions, which have added economical or cultural rights to this list. The focus of the present paper is not on these distinctions, but on different statuses of citizenship for different categories of individuals. The shapes of external boundaries, which are central for my present subject, are almost totally absent in Marshall's text. This deficiency of the analysis is much more serious in a later application of Marshall's ideas by Reinhard Bendix and Stein Rokkan, who explicitly tried to link the evolution of citizenship to the process of nation-building in Europe (Bendix 1964). The

second difference is more theoretical. Marshall's account is too evolutionary for my taste. Citizenship seems to evolve almost logically from civil over political to social rights. While the spread of nation-building over the globe in a way really resembles an irresistible progress of a new species of political communities, citizenship was and is dependent on political struggles between collective actors and foremost between economic classes. There is no automatism and many chances of retrogression in this process.⁸

For the rest of this paper I will not be strongly concerned with the second part of the definition referring to political institutions. The problems involved in this aspect are the democratic quality of political representation, the effects and guarantees of an institutional division of power, the real possibilities of access to a legal system to obtain a certain guaranteed right, in a word the institutional distortions of political equality in a society of socially unequal members. This is what much of theoretical political science is about. Leftist criticism of liberal democracy has increasingly focussed on this aspect, having implicitly accepted that formal equality for individuals within these political systems was no longer the problem after workers and women had become enfranchised. While I do not dispute that the institutional aspect of citizenship might be the one where its present limitations are most obvious, I want to maintain that equality of rights is far from being fully accomplished. Abandoning the critique of liberal democracy on this level implicitly accepts nationalistic legitimation of internal and external boundaries of citizenship.

⁸ This point is also stressed by Bryan S. Turner (1986), who in other passages of his book embraces a notion of citizenship quite different from the one proposed here. Migration is in Turner's analysis an important element of internal modernization, (pp.71 - 73), but he fails to see that it also challenges external national boundaries of citizenship. This could have well fitted into Turner's idea that citizenship has been expanded in four waves. The first three successively overcame differences of property, gender, age and kinship. In Turner's account the fourth one is about a "diminution of ... natural boundaries separating people from nature" (p.99) by social movements "... ascribing rights to nature and the environment." (p.98), which seems to me a quite problematic extension of the concept of citizenship.

The two most fundamental principles mentioned in the definition are egalitarianism and universalism. It is easy to show that both are grossly violated in all present and past political systems we know. If we do not seek a normative definition but an analytical one that can be applied to the real world, we have to recognize that some systems have embraced these principles, while still severely limiting their application, while others did not even adopt them as guidelines.

The two principles have also been used one against the other. Extension of the universality of citizenship in a broadening of the community was used as a justification for restricting the range and equality of individual rights (take the Roman or the British Empires as examples). And even more often, the demand for equality was used as a justification for limiting universality; most obviously in the maintenance of external boundaries, but also in denying internal members full citizenship. The most common justifications for excluding parts of society from (full) citizenship were that some populations were either dependent or undeserving. Dependent members of society had to be represented by those on whom they depended, or else equality would have been only a fiction and representation seriously distorted. Equality could only exist between economically and politically independent individuals. Such was the basic argument for excluding women and propertyless classes. A second category of persons was excluded for the reason of being not respectable and worth of the honours of citizenship. This was true for slaves in ancient societies (remember the remarkable explanation given by Plato in his Republic that slaves could not be citizens because they had preferred serfdom to suicide) and for paupers in early industrial capitalism.

We face the choice of either sticking to our normative definition, with the consequence that there would not have been any community of citizenship previous to very recent examples and a high probability that even these might be discarded by future generations as not having been democratic, or modifying it so that it fits at least some examples in the real world, with the danger

of eliminating the dynamic set into motion by the normative content. My proposal for an analytical definition tries to avoid this choice by shifting the issue from citizenship to the political community. While citizenship is always a normative principle, communities may adopt only a weak version of this norm, which still allows them to refer to themselves as democratic polities.

In the real world communities of citizenship are those which have explicitly committed themselves to both egalitarianism and universalism of citizen rights and developed a set of justifications for whatever limitations of these principles might occur.

This differentiation allows for an expansion of citizenship beyond any previous limits without taking such progress for granted. What makes it possible is a combination of shifts in the relationship of forces, which gives previously excluded or disadvantaged groups a challenging power, and of cracks in the established legitimation of limits to citizenship. It is only after such an expansion has taken place, when it becomes generally accepted that the limitation had not been inherent in the principles of citizenship or necessary for their maintenance.

This should encourage us to think about present limitations of citizenship along national lines as being obvious only in a very short-sighted view looking backwards in history over the last 200 years. While we cannot yet see the social forces who could mount a decisive attack on these limitations, we can see those who are most strongly affected by them and we also can observe increasing fissures in the established legitimation of their exclusion.

1.5. Individual and collective rights

In the normative definition I mentioned individuals as holding and exercising citizen rights. That does not totally exclude collective rights from the concept of citizenship.

Three types of rights can be distinguished:

- Rights, in which the equal status of all individuals is a basic assumption for the purpose of the right. This is true for all civil rights.
- Rights, which only individuals can hold and exercise but which take into consideration differences in the social position of these individuals as members of different groups within society. Most social rights are in fact of this type.⁹ But even political rights are often in this category (e.g. rights tied to federal entities or local constituencies of a state).
- Rights, which are held by a collectivity and exercised by individuals only as legitimated representatives of this collectivity. This type refers to the plural and corporative aspects of most liberal democracies.

Citizen rights can be of either type one or two, which could be labelled as semi-collective rights. Inherent contradictions between such rights and the individual equality of civil rights have been much explored in political theory and they are also T.H.Marshall's main concern in his essay. I tend to think that this conflict poses a profound dilemma for individualistic liberalism but not necessarily for modern societies themselves. There are ample possibilities to accept the difference of collective positions of individuals concerning their local residence, class, income, or profession as a starting point for semi-collective rights of citizenship.

However, there seems to be one fundamental incompatibility between social groupings and citizen rights attached to them. Racial, ethnic and more broadly cultural differences are only rarely accepted as legitimate grounds for rights of the second type. Oppressed racial, ethnic, and religious minorities have often been excluded from all three aspects of citizenship. After having won

⁹ A basic citizen income scheme, however, would be counted among the first type.

equal civil and political rights, many such groups find that continuing social discrimination legitimates their demand for collective rights. But within national and liberal societies that is mostly seen as an unacceptable challenge to basic values. The reason given is that race and ethnicity are ascriptive markers and the only differentiations of rights tolerable are those based on non-ascriptive distinctions. There is some truth in this argument. In a society which demands a high degree of individual mobility and is achievement oriented in its dominant ideology, special rights tied to unalterable characteristics of categories of individuals can have the reverse effect of increased stigmatisation. But this is not the whole truth. The same argument would also exclude special rights legitimated by gender discrimination of women. The racial and ethnic conflict seems to be a much more explosive one in this regard. It seems to me that the demand for collective rights of culturally and racially discriminated groups violates not only general principles of liberalism, but also vital interests of national states.

Collective rights can be combined with different degrees of autonomy. The classical social rights of the provision of income for the needy, the sick and the aged can be granted without giving any autonomy to the social collective benefitting from this right. In many social rights won by the workers movement, autonomy was an important issue. The earliest schemes of social insurance set up by Bismarck in Germany and von Taaffe in Austria in the 1880ies had the intended effect of replacing forms of self-organisation at the shop floor level with state controlled bodies, which however still retained some formal autonomy. Women's' movements have generally shown a stronger concern for autonomy not only in setting up their own organisations but also in the provision of benefits from specific rights (e.g. shelters for battered women). But these demands do not really restrict the sovereign powers of the state. Class and gender movements may demand autonomy, but they are not separatist. Racial and ethnic groups, however, once they put forward specific political demands, nearly always struggle for a high degree of autonomy and self-determination in the provision of benefits, to which they are entitled. Thus, ethnicity collides frontally with the central prerogative of the

nation-state, its sovereignty and its own claims to represent a homogeneous pseudo-ethnic community, the nation. In this conflict the possible solution of semi-collective rights added to equal civil, political and social rights, rarely leads to a stable equilibrium - state authorities will be afraid that such rights only foster demands for even greater autonomy and minorities will feel that they should not only have rights as individuals but also be represented as a collective within the political system itself. An escalation will lead both sides of the conflict away from this type of solution. The possible results are: political suppression and internal segregation of the minority, strict limitation of equality to individual rights combined with forced assimilation, separation of the minority to form its own nation or join an ethnically related one, or a system of internal power-sharing between different ethnic and national groups based on collective rights of the third type.

These considerations show that semi-collective rights are not per se in contradiction with equal citizenship, but the stability of their inclusion in citizen rights depends on a large consensus about the legitimacy of distinctions and the justification of complaints about collective disadvantages.

1.6. Rights, duties, and prohibitions

Many writers on citizenship agree that it is about equal rights, but add that it is also about equal duties. Why does our definition emphasize rights, but does not mention duties?

The argument linking equal rights and duties¹⁰ and turning the latter into a condition for the former can be refuted both on theoretical and on empirical grounds.

¹⁰ Heisler and Schmitter-Heisler can be quoted as an example. "Citizenship has become increasingly unidirectional: it emphasizes rights or entitlements deriving from the state and no longer stresses the obligations or duties traditionally expected of individuals." The authors would not like to concede the "inevitability, irreversibility or normative justifiability of this trend" (Heisler & Schmitter-Heisler 1990, p.7). This has

My theoretical point is that rights, duties, and prohibitions refer to human action in very different ways. What is common to all three is that they generally concern not only specific individuals and their actions, but are about institutional rules, which regulate many different interactions by attributing legitimacy to certain kinds and stigmatizing others as illegitimate. Duties are legitimately enforced actions, while prohibitions are restrictions on the legitimacy of actions. These two concepts explicitly tell us what we must or should not do. Rights, however, only open up a space for human action. They are different from duties in that the action itself is not prescribed. And while a right may be and will in most cases be limited, it is not the right itself which spells out its limits, but it is the prohibition and the threat of sanctions that accompanies it, which defines the boundaries of a right.

Human action is unbounded in its very nature.¹¹ We always have the capability to act differently from what our partners in interaction would have expected or wanted. The fabric of society is built on institutions, whose rules are attempts to define a range of legitimacy for social action. Human action cannot be programmed and therefore the 'software' of social institutions mostly sets boundaries to action rather than prescribing and controlling it directly. Duties come closest to such programmes

implications for their discussion of immigration and citizenship. While they deliberately play down the differences of rights between aliens and nominal citizens, they enhance at the same time the differences of duties in a way that is hardly plausible. "Minimally, the formal distinction between citizens and non-citizens may impede the latter's integration along various dimensions of social relations--although there is no clear evidence that it does. On the other hand, non-citizens have fewer obligations to the political community in which they reside than citizens." Among these lesser obligations the authors count not only military service, but also that "immigrants are not parties to the accretion of compacts among members and their antecedents that underlie the regime and the social order." (Heisler & Schmitter-Heisler 1990, p.11). The idea of a trans-generational social contract, from which immigrants can be legitimately excluded, because their forefathers did not take part in building the political and social order, strongly inflates citizenship with nationalism.

11 See Arendt 1958, pp.190 ff.

and this is why they are the strongest restrictions on the liberty of action. Prohibitions are institutional inhibitions of actions; they define a space of permitted action negatively without referring to the actor's capacity to use this space. Only rights transfer a symbolic social resource to the actor and give him or her a capacity to act legitimately within society. Much sociological theory rests on the assumption that institutions are restraints on human action. But this is a biased view that is only true for duties and prohibitions; in those rules that are formulated as rights, institutions are enabling rather than restraining. Equalization of rights allows for differences between human beings and their actions, while equalization of duties and prohibition restricts plurality within society.

The restrictiveness which duties impose on human action makes it necessary that they take into account different capabilities and resources. 'Ultra posse nemo tenetur', nobody can be obliged to act beyond reasonable expectations of what he or she is able to do. A right does not primarily take into account different capabilities and resources but equalizes these symbolically within its range by adding to all individual differences the resource of social legitimacy, which is equally distributed to all holding the right. Semi-collective rights of citizenship go further than that by redistributing also non-symbolical resources of action in order to equalize capabilities and opportunities of action. But the aim is still to widen the space for indeterminate action, whereas duties must refer to unequal resources because they are about determining actions.

My conclusion is that duties can never be as equal and universal as rights can be. For the same type of action a duty prescribes what must be done and has to take into account what can be done, while a right enables a person to do something and it enables all holders of the right in the same way, opening a space for action that is only limited by prohibitions.

If the statement 'equal rights imply equal duties' was true, then it must also be true that unequal duties imply unequal rights. Looking at those duties that are specifically connected to nominal

citizenship, we will find many empirical confirmations that unequal duties can be and are in fact combined with equal rights. The most elementary of these duties are those to be drafted for military service, to pay taxes, and to respect the general legal norms of a polity.

- There is a long way between contemporary armies and the citizens' armies of democratic or socialist revolutions. Armies have been transformed into technical machineries of destruction, in which the human element remains a still necessary, but also a notoriously unreliable ingredient. This strongly erodes the sense of 'sacredness' in defending one's country, which served as the decisive link between this duty and the honour of citizenship in the past. As military service is not obligatory in all political systems claiming citizen rights, there can be no general rule making citizen rights conditional on military service. Where there is general conscription, there may still be possibilities of conscientious objection without exclusion from citizen rights. In even more states, women are not drafted for military service. It is quite illuminating that until 1918, the exclusion of women from the army was used as an argument against their full citizenship in the very same way as objections to citizen rights for alien residents are put forward today. However, in some states resident aliens have been drafted to the army, e.g. in the USA before general conscription was abolished in the early 1970ies (see Schuck, p.58). And where they are excluded, it is not they who refuse military service and thereby forfeit citizenship, but it is rather the state authorities who distrust their loyalty and refuse to impose the duty on them. Resident aliens are often obliged to military service in the state, whose nominal citizens they are. This makes it unacceptable to impose the same duty on them in their country of residence, but it also serves as a pretext to question their loyalty. In case of military conflict between sending and receiving countries this argument will be convincing for both sides. But if rules and rights in international migration were determined by the assumption of potential wars, there would be little reason to tolerate or stimulate immigration in the first place.

- In taxation we can see a development similar to the transformation of modern armies. It has become a complex technical instrument, geared to state intervention into the economic system, but certainly not to promote equality between tax-payers. The duty to pay taxes is not only disconnected from concerns about equality in the aims of economic policies, but also in what it demands from the individual. Whereas equal and universal social benefits seem perfectly reasonable in many areas of social policy, equal taxation would be rightly seen as unjust, as different incomes have to be taken into account.¹² In the case of military service, unequal duties are invoked as a reason for unequal right, while taxation is often used as a counter-argument, pleading for equal rights where there are equal duties. The demand for voting rights for immigrants is frequently supported by using the slogan of the North American Revolution: 'No taxation without representation!' and demands for equal social benefits are backed up by calculations of the immigrants' contributions to the funds for social security. If we want to be consistent, this linkage should be avoided; it can easily backfire. Western electoral systems are no longer based on criteria of income and it would be wrong to reintroduce them for immigrants. Regarding social benefits, labour immigrants will be net contributors in most systems related to work such as sickness and unemployment benefits and old age pensions, but they may well be net beneficiaries in family allowances¹³. The whole idea of relating contributions to benefits can be legitimately used only in those insurance type systems, where this is an explicit rule, but it generally runs counter to what social rights are all about.

- Respect for general legal norms might be the only duty that seems to be as universal as citizen rights. But in this area, too, the technical aspects of state intervention into society are increasingly important and weaken concerns for substantive

12 The vigorous rejection of the local community charge, popularly called poll-tax, which was introduced by the Thatcher administration in Great Britain, was mainly sparked by its disregard for inequalities of income.

13 This has been one of Le Pen's favourite points in his anti-immigrant campaign in France.

equality. The sheer amount of legislation makes it impossible for most citizens to be well informed and the observance of those rules that are equal for all and should be equally known by all does no longer confer a strong sense of belonging to a community of citizens (as an example, we could mention traffic rules).

I do not think that nowadays there are less duties and prohibitions than before. Quite on the contrary, there has been a proliferation of these forms of rules, resulting from the attempts to maintain state control over processes of social differentiation. Nor have duties and prohibitions lost their potential force. Even the capacity of modern nation states to impose the threat of death on their citizens is almost unbroken. It can be unleashed either in the duty to risk one's life in a war or in the sanction of capital punishment. But the very multiplication of prohibitions and differentiation of duties makes them increasingly irrelevant for the justification of equal and universal citizenship.

There is, however, one civic duty, in which the link to citizenship seems to be a straightforward one. This is compulsory education. In contrast to the three duties just mentioned above, it exists only in modern forms of citizenship. T.H.Marshall pointed out that in its importance for citizenship, compulsory schooling is not so much a duty for children and adolescents, but the most elementary of all social rights: the right of the adult to have been educated. (Marshall 1964, p.89, Bendix 1964, pp.87 ff.). It is "a personal right combined with a public duty to exercise the right." (Marshall 1964, p.90). Public education is an equalization of basic cognitive resources for action within a community. Of course there is a strong class-bias and a hierarchical structure in most education systems of capitalist societies, which undermines equality of this right, but the foundations of these structures are certainly more equal and universal than any previous form of social education and learning. Common education is also of crucial importance for the claims of immigrants to be citizens of the societies in which they live. As far as I know, there is no industrialized nation in the world, which systematically excludes children of long term immigrants

from public schooling. (There are however frequent exceptions for children of illegal immigrants and undocumented workers, who cannot exercise this right because this would mean detection and deportation for their parents).

However, public education is not only a social right, disguised as a civic duty, but also the strongest instrument for the cultural homogenisation of society by the modern state and thus for the building of nations as imagined communities¹⁴ of common culture (Gellner 1983). This is why the social right of immigrants to be educated in the country of immigration so often goes along with a violation of their right of education in their particular languages and cultures.¹⁵

1.7. Volume, density, and weight of citizenship

Boundaries of citizenship are not simply identical with state borders or with the dualistic distinction between nominal citizens and aliens. They can refer to three different, but interrelated aspects. In order to explain what is meant by these aspects, I shall use a rather crude analogy. A closed physical system consisting of molecules of a certain chemical structure interspersed with other molecules in a solid container could be characterized by the following descriptive elements: the volume of the container, the specific molecular weight of the chemical substance we are interested in, and the frequency of these molecules in relation to the others in the container. Similarly we could talk about a specific volume or extension of citizenship, the weight of the bundle of rights conferred by full citizen status, and the density of citizenship, meaning the internal differentiation within a society between its full citizens and other member in lesser statuses of citizenship.

¹⁴ This term was coined by Benedict Anderson (1983).

¹⁵ This dilemma is the topic of a forthcoming article (Bauböck 1991b).

It might seem necessary to split the last one of these aspects into two. The notion of density could be reserved to those differences that arise between citizens and those members of society that are excluded from citizenship, while the inequalities of rights between categories of citizens could be labelled as weight differences. However, this mostly boils down into one single dimension, because citizenship always includes a *bundle* of rights and any person who is not completely excluded from all rights of citizenship can be regarded as a citizen in at least some respect. For all such cases, density and weight difference are descriptions of the same phenomenon. None but the most extreme cases of inclusion in society but total exclusion from citizenship can only be described in terms of density. Examples for this will be either close to slavery or to pariah castes. As this consideration shows that density is the more general term, we will use it to cover both aspects.

If we do not limit our analysis to only one political community, all three aspects characterize boundaries of citizenship; density refers to internal and volume to external boundaries of one community, while weight is the essential aspect in comparing differences between externally bounded communities.

The analogy enables us also to distinguish three different forms of progress in citizenship: an enrichment of the bundle of rights, enjoyed by those who are already full citizens (increase in weight); an extension of rights for those who are not full citizens or their inclusion in full citizenship (increase in density); a widening or opening of external boundaries of citizenship to let in new members into society (increase in volume).

Frequently these three paths along which citizenship can progress, are seen as alternative routes leading to different goals. An increase in one aspect may be used to justify a decrease in another. If we modify the original definition to include changes over time, the normative formulation should demand that increases in one of the three aspects shall never be outweighed by losses in another. The analytical definition would have to take into account

that some of these trade-offs seem to be legitimate in the eyes of communities who think of themselves as being egalitarian.

An example that can well illustrate this point is the close correlation between the extension of social rights for the working class and immigration controls. Workers had only become full political citizens after the introduction of universal male and female suffrage. Social rights connected with the development of the welfare state can be seen as a next decisive advance in the weight of citizenship. But in most cases they were tightly connected with increasing state control of immigration, which meant a sealing of external boundaries. Inversely, where borders remained relatively open for immigration, state intervention into the labour market was substantially weaker and there was less universality of welfare benefits. A third type of development has been a splitting of social rights to exclude illegal and short term immigrants. In the first case weight was increased while restricting volume, in the second volume was increased while restricting weight, and in the third weight was increased at the expense of density.

2. Immigration rights and citizen status of immigrants

External boundaries are considered essential for the very concept of citizenship. But these boundaries are almost never impermeable. There are two different forms in which they can be overcome; one is individual immigration, the other one is the fusion of previously separate communities into one. The first form lets the boundary untouched or confirms even its importance by the controls implemented. The second form, however, erases the boundary itself.

We shall first explore at some length cases in which immigration crosses territorial political borders but either does not alter them or even establishes new kinds of boundaries to citizenship. Even under these restrictions immigration can be seen as intimately connected with citizenship, because the citizen status

of immigrants strongly depends on whether their immigration already was the exercise of a citizen right.

Deviations from a situation of equal rights can take two different directions. If we define a right as the legitimation of potential actions, there can be either selective restrictions which prevent some populations from carrying out actions that are legitimate for the rest of society, or there can be populations who enforce their right of action as a privilege, which they deny to other members of society. The following diagram applies this consideration to a general status of citizenship for members of a society on the one hand, and to immigration rights into this society on the other hand. What emerges from a cross-tabulation of both dimensions are three characteristic combinations which form the diagonal:

Diagram 1: Citizen status and immigration rights

Citizen status after immigration		Immigration rights		
		withheld a	conceded b	enforced c
reduced	a	dependent immigration	ba	(ca)
full	b	ab	citizen immigration	cb
exclusive	c	(ac)	bc	colonizing immigration

a) **Dependent immigration:** In most cases immigrants themselves do not hold a right to immigrate. We shall briefly consider several examples. The first is immigrants who illegally cross the border. Some might argue that these people force their entry and thus should be listed among c. But do they hold a right to do this? According to our definition rights must be enshrined in institutions of a political community. Per definition, the receiving country does not offer a right for illegal immigration. In the general case the country of emigration cannot offer such a right either, as this would mean imposing a severe restriction on

the sovereignty of the country of immigration. The second example are immigrants showing up at the border and possessing valid travel documents which give them a specified right to enter the territory. This is balanced by rights of the receiving state to restrict entry for certain categories of persons (generally those who are seen as a potential risk for public order, security or health). But what is essential here is that we are not primarily concerned with a right to cross borders but a right to immigrate which includes a right to settle in the country for a longer period and to take up employment. This may be granted to persons attempting to legally enter the country under certain conditions, but in most cases these persons do not hold a right to do so. As a third example we can mention guest worker policies. If an employer obtains a permission to recruit workers abroad, or if a governmental agency is doing that on his behalf, then he holds a right to take in immigrants. Unless we are talking about slavery, there must be a corresponding right on the side of the immigrants themselves, but their right of entry is dependent on the right of the employer to recruit and employ them. What all these situations have in common is that any right to immigrate which might be conceded, is dependent on decision by the authorities or on rights held by members of the country of immigration that cannot be seen as acting on behalf of the immigrant. If somebody still wants to call this a right of immigration, it is certainly not a citizen right as we have defined it.

My hypothesis is that immigration who have not held an autonomous right of immigration when entering the receiving state, generally find themselves afterwards in a reduced status of citizenship within the legal and political system of this country.

b) **Citizen immigration:** We will use this term for forms of immigration in which individuals hold an independent right to immigrate and this right is institutionally anchored within the society of immigration. There can be a strong and a weak expression of this immigration right; it can be guaranteed or merely conceded. The latter was chosen for labelling the column in

the diagram because it helps to include more cases than the stricter requirement of a guaranteed right.

The most obvious example for this type are nominal citizens who have been abroad and hold an unconditional right to re-enter their country at any time. This is generally considered as the most basic right incorporated in nominal citizenship. (The corresponding right of emigration, that is to obtain an internationally valid passport which enables a person to leave her or his country of citizenship, is frequently more restricted).

A more specific example are several states which grant a citizen right of immigration even to persons who have not been formally registered as citizens before immigration. The best known cases are those of Germany¹⁶ and Israel, which grant such a right to persons who meet criteria of ethnic origins.

A third and very different example is provided by postcolonial immigration. Since the beginning of decolonization there have existed different forms of immigration rights for certain populations of the former colonies. Sometimes these immigrants were regarded as full citizen already when living abroad (e.g. inhabitants of the French overseas departments and territories and Algerians before liberation), in some cases they were finally given a second class citizenship with restricted immigration rights (New Commonwealth immigrants in the United Kingdom). The right of immigration can be abruptly suspended with independence (immigrations from Dutch Guyana to the Netherlands) or be maintained as a confirmation of a special semi-colonial status (Puerto-Ricans in the USA). However, the main difference between ethnic citizen immigration and postcolonial immigration is not in the specific form of rights, but in the social status of immigrants. While immigration in both cases puts strains on the

16 In the FRG prior to unification there were basically two different categories of citizen immigrants. The first were those from the GDR (Übersiedler), who were considered as having been German citizen already when living there, and the second were ethnic Germans from other Eastern European States, mainly Poland and the Soviet Union (Aussiedler), considered as descendents from citizens of the German Reich in its borders of 1938, who are granted a right of naturalisation immediately after immigration.

regulation of labour markets and social rights, these are made socially acceptable in the German and Israeli cases by the nationalist imagery of common descent, while they are exacerbated in postcolonial immigration by racism.

If immigration is based on a citizen right then it almost invariably leads into citizen status immediately after immigration. There may be some minor exceptions from this rule where these immigrants are thought either to need special provisions which other citizens cannot enjoy, e.g. social rights like the so-called 'Begrüßungsgeld' (welcome benefit) for immigrants from Eastern Germany before unification, or there may be certain restrictions as for example in their access to public office.¹⁷ Generally speaking, however, the cases of citizen immigration in Germany and Israel show that arguments against immediate and full citizenship for immigrants often use two different measures. Many if not most of these immigrants do not meet the criteria of cultural and linguistic assimilation, of economic independence, or of proven loyalty to the country of immigration that are imposed on other immigrants before citizen status is granted to them.¹⁸

c) Colonizing immigration¹⁹: In a third type of immigration the right to immigrate is institutionally anchored not in the country of immigration but either in the country of emigration or in an exclusive settler colony. As we mentioned above this means that the sovereignty of the country of immigration is severely

17 As many Jewish emigrants from the Soviet Union are reluctant to settle in Israel, this country restricts their freedom to go abroad for several years after their arrival.

18 "In the course of time, the problems of integration of either group (ethnic Germans and other Eastern European immigrants, RB) have become more and more similar: within the group of emigrants (ethnic Germans, RB), too, the utility of their basic occupational qualifications and their language proficiency has been decreasing." (Hönekopp 1991, p.8).

19 Colonizing immigration will be generally excluded from considerations in later sections of this paper because it represents a complete reversal of the patterns characteristic for modern mass migrations, which I am mainly concerned with.

restricted by the country of emigration and in this respect the immigration can be called enforced, even if there had not been open violence. The typical case is European colonization of America, Subsaharian Africa, Southern Asia and Australia. One could well argue that there is no citizen right whatsoever involved in this process. But if we stick to our general definition we have to recognize that white European invaders, conquerors, and settlers thought they had some legitimate right to enter these territories, which was sometimes based on notions of citizenship that had evolved in their home countries at the time, just as ancient Athenians and Romans considered the right to possess slaves as a basic element of their citizenship. In cases where colonization was the task of a small number of functionaries and white enclaves were limited to repressive forces, bureaucratic authorities and tradesmen, these colonizers did not really hold and use a citizen right of their country of origin, but acted simply as representatives of their states or as a part of their ruling classes. This was mostly the case in black Africa or Southern Asia. But where there was a process of extended white settlement as in both parts of America, in Southern Africa or in Australia, immigration into the colony was certainly a specific and important right. In significant cases this exit option into the colonies was in fact a remaining citizen right for ethnic and religious minority populations of the home country that had been deprived of essential elements of citizenship there.

Even though the right to immigrate into a colony is mostly embodied within institutions of the country of emigration this is not necessarily always so. In the case of dissident emigration, leaving the home country already was an act of largely abandoning its citizenship, in other instances settler colonies considered their original citizenship as insufficient for their own interests and staged successful revolts against the European metropolitan powers. Both processes lead to a situation where the institutions guaranteeing the citizen rights enjoyed by the settlers were no longer those of the country of emigration, but the ones which the settlers themselves set up in the country of immigration. The essential reason for distinguishing even this type of immigration from illegal immigration into industrialized countries of the West

is that only the former is typically combined with exclusive citizenship for immigrants. Colonized populations were not granted citizen status. This is not only true for those whose ancestors had already lived in the territories before colonization, but also for those who had been brought there to serve as slaves or forced laborers. Even after some of these forced or dependent immigrants in the colonies managed to establish themselves as middlemen minorities in trade and small business (as for example Indian immigrants in Eastern Africa), they remained excluded from white European citizenship until decolonization.

Having characterized the three dominant combinations of immigration rights and citizen status we can now investigate some cases which could fit into the other cells. Summing up the main results of my considerations in advance, I think that the combinations labelled 'ac' and 'ca' are very improbable and can almost be ruled out. This is why I put them into brackets in diagram 1. It is heuristically important, however, that we should not exclude them on a priori grounds as this would weaken the argument. If (ac) and (ca) are theoretically possible, but we do not find empirical cases that fit into these boxes, then we have a strong indicator for a positive correlation between the two variables forming the rows and columns of the table. If we exclude, however, the very possibility of any cases outside the diagonal on theoretical grounds, we arrive at the trivial case, in which both variables are actually measuring the same thing. I have also indicated the presumed correlation by placing the inscriptions for the remaining four combinations (ab, ba, bc, cb) not in the centre of their cells, but close to that fields of the diagonal to which they seem strongly related. Most of the examples I can think of, appear to be rather deviations from the three main combinations outlined above than separate types of their own. This will be explained in a moment.

I first want to briefly consider how a correlation of this sort could be interpreted. Because of the egalitarian and universalistic principles it can be expected that most citizen rights will correlate strongly among each other. A simplified picture of the general structure should be such that we always

find more cases in the downward pointing diagonal (a,d) of the following diagram than in the upward pointing one (c,b), no matter which rights we choose for the two axes:

Diagram 2: Correlation among different rights of citizenship

		Citizen right X	
		no	yes
Citizen right Y	no	a	b
	yes	c	d

Category a exhibits the limits to universalism and egalitarianism imposed by external boundaries of citizenship. We know already that this is the structure of the real political world, which is justified by principles limiting citizenship to closed communities. Categories b and c, however, exemplify violations of both principles within such communities. If a person is granted a citizen right X but denied another such right Y that means that he or she must be a citizen of the community in at least some respect (referring to X). So any such case exemplifies the existence of second class citizens and less than full density. If cells b and c are not empty, we can either say that full citizenship is not universally distributed within the community, or that it is unequal for different categories of citizens. There is obviously no reason to exclude the existence of c or b on a priori grounds, if our definition of citizenship takes into account the features of a real political world. But if cases c and b are more important than examples for a and d, we face a problem with our definition, as that would indicate a state of a political system which can hardly be called citizenship in the first place. It would be either a strongly hierarchical political community in which full citizens only represent society as a very privileged layer or a system including several communities of mutually incompatible citizenships. We must, however, remember that 'importance' does not refer to the number of individuals in each of the four boxes but rather to the observable combinations of rights. It would be unwise to offer a procedure for a numerical operationalization weighing the importance of rights with the numbers of individuals

who enjoy them, as there have been communities of citizenship, in which the majority principle was not relevant beyond the category of full citizens. All we can say is that the image which a community of citizenship has of itself, is always such that there is a broad category of full citizens, representing society as a whole and all people excluded from that group are seen as being less involved in society itself.

Applying these general considerations to our previous table, it seems that a right of immigration has the quality of a citizen right, if the picture that emerges from our crosstabulation is very similar to what we should receive from the combination of two citizen rights. Of course this is not an empirical proof that immigration rights are actually part of the bundle of citizenship, but only a theoretical justification that they could be treated as citizen rights, despite their transgression of external boundaries, and that a lack of this right can be seen as a deficiency in a broader concept of citizenship.

Returning to diagram 1, I would like to give a few and certainly not exhaustive examples for the remaining four combinations (ba, ab, cb, bc):

(ba) immigration rights conceded--restricted citizen status:

Asylum seekers in countries which have signed the Geneva Convention or other international treaties on the status of refugees could be located in this field. They certainly do not hold a right to immigrate comparable to the right of re-entry for nominal citizens, but on the other hand their claims are stronger than those of labour migrants. Generally speaking in international law the right of asylum is not regarded as a subjective right held by the refugee, but as a right of states to grant asylum to those, persecuted within another state. The definition of the Geneva Convention however already enlarges this narrow concept by defining who is to be regarded as a refugee (persons outside their country because of well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group of political opinion). In the internal legislation of some

states (as for example in the FRG)²⁰, the right of asylum is stated in much more categorical terms. What is important for our present concern is that their right, however restricted or violated in law or in practice, is based on their own personal situation and not in the same way dependent on someone else's rights or on arbitrary decision by the authorities of the country of immigration. The basic idea of the right of asylum is a recognition of an urgent need to immigrate which restricts the power of exclusion for states. Having said this, we have to acknowledge that in its present forms this right is mostly limited to a very small range of motives for emigration, and where this range is much broader as in the African or Latin American conventions, it is not combined with sufficient rights to gain access to means for survival in the country of immigration. On balance, the right of asylum thus comes quite close to dependent immigration, even if its underlying principles are clearly different from this type.

In most countries the citizen status of asylum seekers is severely restricted. In Europe as a general rule they enjoy even less rights than immigrant workers as long as they have not been granted the status of refugees according to the Geneva Convention or after their application has been rejected. Some people argue that social spending on housing, food, and education for these asylum seekers gives them unjustified advantages over legal immigrants, but this type of benefits is quite far from a genuine social right, as it is mostly tied to restrictions on their liberties (especially in free movement and in access to the labour market). It is only after official recognition as political refugees that in some countries their citizen status is raised above that of other legal immigrants (e.g. concerning equal rights in social benefits or easier access to naturalisation).

A second category that could be located in the same field are family members of legally settled immigrants, who enjoy a special right to immigrate. One could object that this is a typical case of dependent immigration. The right to bring in one's family

²⁰ The formulation of the German Basic says that politically persecuted persons are entitled to asylum.

becomes unconditional only after naturalisation and it could be attributed to those persons who have already settled in the country of immigration rather than to the new immigrants themselves coming in under a family reunification scheme. But the situation is still quite different from that of an employer who is allowed to recruit migrant workers abroad. The family is a closely knit social unit and in a way the right is held and exercised by the family as a whole, and the individual members settled in the country of immigration hold this right just as representatives of the family. However we would like to interpret this, there certainly exists a special form of immigration right based on family ties that finds its expression also in international conventions on human rights.²¹

Its difference to citizen immigration is most obvious in the second dimension; the status of citizenship these family members enjoy after immigration is mostly not better and sometimes considerably worse than that of the other resident members, even if they usually have some advantages over legal newcomers without family ties. In some countries like Germany²², there are long waiting periods for access to the labour market, to some social benefits, or even before naturalisation if the resident members are already naturalised citizens.

(ab) immigration rights withheld--full citizen status after immigration:

Considering liberal justifications for external boundaries of citizenship we would expect to find many cases of this combination as the legitimations for restricting immigration are much stronger than those for restricting access to citizenship for those who have immigrated.²³ But strangely enough, most countries of

21 see article 8 of the European Convention on Human Rights.

22 These restrictions have been modified in the new Aliens Act, which went into force on January 1st 1991.

23 see (Walzer 1983, pp. 52 - 61) and the excellent accounts of liberal principles in both issues by Joseph H. Carens (Carens 1987 and 1989).

immigration have been very reluctant to grant their legal immigrants full citizenship if they had not been full citizens already at the time of immigration.

If we allow for a certain temporal lapse between immigration and full citizenship, this type is represented by countries that give immigrants an unconditional right to naturalisation after a short period of settlement. Even using this mollified criterion we find few states that do not impose restrictions on naturalisation (e.g. criminal record), which are not inversely invoked as reasons for expatriating citizens (Carens 1989, p.47). An unconditional right of naturalisation for immigrants is very rare indeed. In some states it exists in the form of automatic attribution of citizenship not for immigrants but for their children in the second or third generation (second generation in USA, Canada, Australia, third generation in France). But countries with a long history of immigration, intimately linked to the process of nation-building itself, and basing naturalisation on *ius soli* rather than on *ius sanguinis* generally come much closer to this type.

A second possibility of releasing the strict criterion of full citizenship would be to include cases in which immigrants enjoy almost all citizen rights without becoming nominal citizens. Sweden after 1975 represents a clear example that both can be done at the same time even though this country has not been a traditional immigrant nation. Schuck argues for the USA that citizenship there has been devaluated by increasing rights for non-naturalised immigrants (Schuck 1989).

In order to fill the cell in our diagram with empirical cases, we have to modify either the requirements of temporal coincidence of immigration and citizenship, or of access to the full bundle of rights. This indicates that in the horizontal row this combination comes closer to dependent immigration than to citizen immigration. However, the main difference with the latter is in the columns; in the lack of a right to immigrate in the first place. This is obvious in the Swedish case and somewhat less explicit in the traditional immigrant nations. But there too, we find quite strict

limitations on immigration in the form of quota regulations since the beginning of this century, which show that it is not the immigrant who holds a right of immigration.

(cb) immigration rights enforced--full citizen status after immigration:

This particular combination would indicate a situation, in which immigrants force their entry into a society but after that fully integrate themselves into a community and are fully accepted by it. Additionally we have to remember that we have excluded from our discussion all polities, which do not in some way embrace principles of citizenship. The community in question ought not to conceive of itself as an exclusive political class or caste but should claim to represent the whole society of the country of immigration. It is certainly difficult to think of any cases, where both these conditions are met simultaneously. In a way this type spells out a potential difference between invaders and colonizers. In history we certainly can find many examples of invaders who quickly assimilated to the culture of the invaded populations. Much rarer are those cases where they also integrated into an established political system. We could mention the Mongolian emperors of China. But that still does not meet all our requirements. It is much easier to take over and leave intact a rigid hierarchical structure, in which the resident populations had already been powerless before the invasion. But can we really imagine a community based on equal rights for the conquered as well as the conquerors? We could, if we allow again for time intervals between events in a historical process. To fill in this type, we can think of successive processes of invasion, colonizing settlement and decolonization. Zimbabwe or Namibia might be quoted as the most recent examples, in which former colonizers had finally to accept being citizens equal with those whom they had violently oppressed for so many generations before.

One could very well argue that in these cases we rather have two different and successive situations, one representing the pure case of colonizing immigration and the second one not fitting into

our table, as there is no further significant white immigration. This would, however, separate two processes which are linked. For emerging communities of citizenship in former colonies it is the transition, which raises acute and painful dilemmas. Which rights should be given to those who previously saw any democratic right as their exclusive privilege? Is it legitimate to maintain and only gradually reduce special prerogatives for these settler populations during a transition period? Should a liberated colony bow to external pressure from the former colonial powers in these matters?

On the other hand the length of the time interval between immigration and full citizenship is extremely long in all these cases and this should make it clear that even if we want to see this combination as a significant one, it is certainly closer related to colonizing immigration than to citizen immigration.

(bc) immigration rights conceded--exclusive citizenship after immigration:

At first glance this seems the most unlikely of the four combinations we are discussing. We must remember that in this case the right to immigrate should not have been enforced by the immigrants themselves or by their home country, but should have been voluntarily conceded by the community into which they immigrate. However, which polity would tolerate immigrants to set up a separate and exclusive political community of their own? There are two possible cases; one, in which the inviting community is deceived by immigrants, who are powerful enough to set up their own rule and a second, in which the inviting community already is a 'plural society', consisting of several politically separated entities. I shall only briefly discuss the second.

In accounts of plural societies emerging from colonial rule, we cannot find structures of a political system with separated communities of citizenship. If we combine the two main theories of such plural societies²⁴, the overall picture is a pattern of

24 (Furnivall 1939, 1948, M.G.Smith 1965).

rigidly separated ethnic communities, a cultural division of labor in production with extensive exchange between communities in the market, and a single hierarchical political system imposed on all the communities either by the colonial power or by a dominant ethnic group. However, the term plural society has also been applied to very different societies like the Canadian, Belgian, or Swiss. In these cases we do find internal differentiations of the national political structures along linguistic, ethnic or national lines. But these certainly do not go as far as establishing different communities of citizenship. Short of a possible break-up of such pluri-national or pluri-ethnic states, the dominant structure is always the centralized national one. There is another reason, why these examples do not fit into our case; the partially separate political communities are not set up by immigrants. On the contrary, it seems that it is especially difficult to combine a right of immigration and the political recognition of immigrant communities in these states. The plural structure of these political systems means some extent of power-sharing between ethnically or nationally defined communities. Special rights for immigrants similar to those enjoyed by autochthonous groups are perceived as a threat to an established balance of power and are strongly resented by well-established ethnic minorities. The Canadian case might be quoted as an exception to the rule, but it is illustrative for the dilemma involved. Programmes of multiculturalism and special rights for immigrants as ethnic minorities were seen by many French Canadians as a vicious plot to put them in a position as only one ethnic minority among many others.²⁵

Generally speaking a pluralism of cultures which is tolerated or even promoted by state policies does not imply exclusive forms of citizenship. On the contrary, the extension of citizenship to specific rights for ethnic minorities of autochthonous and immigrant origins can help to create a larger and common political structure of equality within which different cultural communities

25 This contradiction between ethnic pluralism in an established political structure and the recognition of ethnic rights for immigrants is further explored in my forthcoming article: Nationalismus versus Demokratie (Bauböck 1991a).

can survive and evolve without having to close their boundaries and to mobilize their constituencies as separate political communities.

An example that comes closer to the requirements of our analytical scheme would be the early North American settlement, if we do not focus on the relation to the indigenous populations, but rather on the types of political communities created in this settlement. There was little or no restriction on immigration and it could be said that in these times there was a virtual right to immigrate, which was anchored in the political structure of the colonies. Until the War of Independence and in many respects even until the Civil War there was hardly a unified political system, but several separate communities and later states, whose internal powers were stronger than that of the central authorities. At some stage in history it was not obvious that the final result would be a structure of only two strong federal states rather than a repetition of the European pattern. Most importantly for our categorization, these separate communities had often directly emerged from immigration of separate religious, ethnic and national groups, who intended and were allowed to set up their own communities of citizenship. This was not only an ephemeral phenomenon but a relatively stable structure and it took several wars to destroy it and to secure predominance for citizenship on the federal level.

We could see this as a type of its own, if there had been completely unpopulated territories, which were filled up by immigrants establishing their own separate communities of citizenship. But this idea runs counter to the requirement that there should be already communities present which concede the right to immigrate. Certainly these were not the communities of American Indians, but those of the first settlers and the representatives of the colonial powers. Where it occurred, such immigration was always combined with either extinguishing or colonizing indigenous populations and thus we have to locate this combination close to what we have called colonizing immigration and certainly not close to the horizontal row of full citizenship.

To sum up the main findings from this exploration of different examples, we get a picture of two clusters around the types which we have called dependent immigration and colonizing immigration, while the category of citizen immigration stands rather on its own. The whole picture thus resembles one of strong correlation between the two variables, which form the rows and columns of our table.

3. Fusing communities and increasing the density of citizenship

When discussing citizen immigration, I assumed that entry rights in this case are explicitly part of a bundle of citizen rights. Defenders of the traditional view that citizenship is necessarily and strictly bounded can only cope with these examples by sticking to the legalistic pretensions that these immigrants had already been citizens of the country of immigration even while they had lived somewhere else. This is fairly obvious in the case of remigrations of nominal citizens. In the case of East Germany before unification this was a legal fiction, upheld by one state against another (West Germany refused to recognize a separate East German citizenship). However, this does not apply to ethnic Germans in Eastern Europe or to Jewish populations outside Israel. Before emigration they have only one nominal citizenship--that of the state they live in. Somebody might argue that our broader notion of citizenship could be applied to these cases, too. Perhaps ethnic co-nationals can be said to enjoy some kind of informal citizen status of their prospective states of immigration? However, there is hardly any other right involved for these populations in their potential Israeli or German citizenship apart from the right to enter these countries, not even the right of emigration which may be withheld by the states in which they live (as was the case for Jews in the Soviet Union for many years). I do not want to deny that there may be special links between ethnic communities scattered around the globe, which find their expression in an emotional relationship to an ethnic mother country. I do not even rule out that this mother country can help to maintain the ethnic identities of those enclaves by exercising

pressure on the state where they live, and can thus help to guarantee certain collective rights for them. But it is hard to see which sort of *citizen right* could tie them directly to the external community of this mother country before immigration to its territory.²⁶

Their situation presents the strange example, where there exist significant boundaries of citizenship in the country they are leaving, but somehow there is no real boundary which they have to cross when entering the country of immigration. The importance of the boundaries in the country of emigration can either manifest itself in their loss of rights when they have to abandon its citizenship, or it can show itself more brutally when they did not possess many such rights and even had difficulties to obtain a passport entitling them to emigrate. In most other examples of dependent immigration the reverse is true. The essential boundary to cross is the one in the country of immigration, where many citizen rights are generally tied to nominal citizenship and others can only be obtained after long term residency. For returning nominal citizens in most cases neither the boundaries of the community they are leaving, nor those of the community they are returning to, present themselves as high walls. In the country of emigration they mostly did not possess the status of full citizens and this country is obliged under international law to let them go, and in the country of immigration they are already citizens before they arrive. Thus the example of re-entries of nominal citizens already comes quite close to internal migration within a community of citizenship, where there is no boundary to be crossed at all. But still there may be some significant losses of citizen rights involved in their remigration. And more importantly we have to remember that this similarity exists only when a person is going back to her or his country of citizenship; previously the same person might have been a dependent immigrant with very few citizen rights.²⁷

26 We shall see in the next chapter of this paper that there is a quite substantial form of external citizenship, but this is always tied to being a nominal citizen of another state. That is not the case in the examples of ethnic Germans or Jews.

Emigration and immigration boundaries of citizenship in different forms of migration:

	emigration boundaries	immigration boundaries
dependent immigration	low	high
ethnic citizen immigration	high	low
remigration of nominal citizens	low	none
internal migration	none	none

This list illustrates a second point, why it is quite reasonable to think of migration rights as a special element of citizenship. While we showed in the last chapter that immigration rights correlate with citizen status after immigration just in the way citizen rights generally correlate among each other, we now see that even in most forms of international migration the boundaries of communities of citizenship are not impermeable and what helps to lower at least one of them in most migrations can itself be seen as a citizen right. The most universally granted citizen right of migration are the right to return to one's country of nominal citizenship. Much less respected, but still conceived of as a universal human rights are the right of free choice of residence within a state and the right to emigrate from any state including that of one's nominal citizenship (Universal Declaration of Human Rights, article 13). However, with the few exceptions already mentioned, there is generally no right of immigration to a country, whose nominal citizenship the immigrant does not possess.

My third point is that for the building or extension of new communities of citizenship these weak forms of migration rights have to be transformed into a strong and unconditional right of migration, erasing internal boundaries that may have existed before. This question seems to be rarely considered in the general

27 What we have outlined in this paragraph is only a very rough sketch, there are many exceptions to these rules. We will explore changes in citizen statuses because of international migration in more detail in the next chapter.

literature on citizenship and it is conspicuously absent in discussions of international migration. But it was of utmost importance in the emergence of national states and the extension of citizenship from the medieval city to the modern nation. Free movement, i.e. an unconditional right of migration within the nation was essential for this process.

Whereas the forms of immigration discussed so far increase the volume of a community without immediately changing its boundaries, fusions do the same by erasing boundaries. However, one of the main arguments of this paper is that in the long term and taking into account present developments of international migration, the two processes cannot be separated neatly. Either the structure of citizenship is such that immigration will lead to a lowering of its internal density, then immigration will be seen as putting into danger democracy. Or the structure is dynamically adjustable to immigration so that density can be maintained, then it will turn out that external boundaries will have to be weakened in this process as well. If this latter process is allowed to continue it will lead to a process we can call 'slow fusion', lowering international boundaries of citizenship and establishing internationally transferrable citizen rights. In a period of increasing international migration, the democratic quality of citizenship can only be upheld by weakening its external boundaries and this weakening itself constitutes a major enrichment of the bundle of citizen rights by a strengthening of migration rights.

Let us briefly examine some examples of fusions. Before the emergence of modern nation states, citizenship in Europe was only significant at the level indicated in its etymological origin: in the city. The territories of the large European empires and of the small principalities presented exactly the image of Hannah Arendt's quotation: small islands of citizenship interspersed in an ocean of rural feudal relationships. National unification did not automatically and in every case bring with it an extension of citizen rights to the national level by embodying them in national democratic institutions. But in all cases it meant establishing a basic civil right of internal migration that had not existed

before. In this process the strictly limited rights of immigration into cities became transformed into an unconditional right of settlement within the national territory. In some aspects this process too was rather a slow than a quick fusion. Social rights were restricted in many states to local citizenship for a long time after national unification and independence. A good example for this is the so-called 'Heimatrecht' in 19th century Germany and Austria, which restricted the right to social assistance by the local authorities to the community of one's birth and was only gradually extended to include long term local residents.

The right of internal migration has often been more directly limited for aliens, although this contradicts the Universal Declaration of Human Rights. In some receiving countries, aliens are directly requested to live in certain areas, in other cases there is a policy of restricting spontaneous inflow into such areas with already high percentages of immigrants. Such quota regulations had existed in some West German cities, but were generally abandoned in recent years.

The right of internal migration is a necessary condition, but not a sufficient one for the fusion of communities. The second condition that has to be met is a fusion of the political institutions of citizenship. This can be illustrated by the present process of integration within the EC, in which limitations on transnational internal migration will be eliminated, but the authority of the European parliament and the European court will still be weaker than that of the corresponding national institutions for a long time to come. This should not conceal the fact that there will be a decisive shift of decision-making powers to EC institutions after 1992 which has already been gradually prepared over the last years. But the institutional arrangements legitimating these decisions will rather express a delegation of sovereignty from national bodies to the EC level than direct control of EC-citizens over these decisions. The combination of the right of internal migration and the lack of institutional fusion will lead to a situation, in which usage of this right can still lead to significant changes in one's citizen status. Even if EC-citizens might be granted local voting rights within all

countries of the community this certainly cannot compensate for a loss in the possibility of exercising national voting rights as long as European elections do not symbolize the same amount of political participation as national ones. There may also be some gains in rights, when EC-citizens immigrate into a state that grants more extensive social citizen rights than the one they come from. What I want to point out, is that in contrast to national fusions there will still be quite important changes in citizen rights resulting from internal migration, which can serve as an indicator for incomplete fusions.

The final example is a recent process of fusion in which both conditions were met and this is of course German unification. It is a showcase illustration for the importance of migration rights in such an event. For 28 years after the building of the Berlin Wall, the Pan-German citizenship enshrined in the West German constitution was only a legal fiction. It did not help to guarantee free migration but worked even as an incentive for the East German regime to seal the border and prevent outmigration by the force of arms. However, once this regime was shaken, the mass emigration stimulated by automatic citizenship in Western Germany was a decisive factor in accelerating unification. This is not to say that unification was inevitable because of a dynamic based on common citizenship. But after the opening of the wall, independence and sovereignty of Eastern Germany would have been only legitimate had there evolved a new political community with its own features of citizenship, distinct from the Federal Republic. This was the political program of the November 1989 movement, which wanted to keep open the option of slow fusion based on institutional separation. It failed because the already existing nationalist legitimation of German unity, which had been maintained and built up over decades in the West German political system, was boosted by the economic collapse in the East. So in this case the right of migration worked as a decisive catalyst for a process of institutional fusion--or rather institutional takeover.

As a general hypothesis drawn from these different examples we could expect that the stronger a right of migration is conceived

of as a citizen right, the stronger the pressure will be to weaken previous external boundaries of citizenship, to equalize differences in citizen rights and to initiate a process of institutional political fusion. The speed and range of these processes will be largely determined not by the dynamics of citizenship, but by the brakes put on this dynamic in the new definitions of external boundaries. Nationalism helped to legitimate and to speed up the struggle for equal citizenship within the nation but also set a strict limit to it when it transcended national boundaries. We shall probably experience a similar dialectic with regard to European integration. The emergence of a transnational European citizenship may well be accompanied by a distinctive brand of Eurochauvinism, legitimating the exclusion of non-European aliens from the newly established rights.

Incomplete fusions can also be seen as increasing the volume of citizenship at the expense of lowering its density. If you loose some of your citizen rights when migrating within the new community that expresses a territorial differentiation of citizenship. Assume that a larger community has been combined from just two different regional communities A and B. The fusion superimposes a new national bundle of citizen rights on the previously existing regional citizenships. However, a number of such rights remain tied to regional membership and incorporated in regional political institutions. Because of their different traditions these regional citizenships are not equivalent; the level of social assistance benefits could be much higher in A than in B, but there is no cheap local authority housing programme in A as there is in B. Let us further assume that there is a residence requirement for access to both forms of social rights. Then we have at least four categories of citizens with different rights: regional citizens of A living in A, regional citizens of B living in B, nonregional citizens living in A, and nonregional citizens living in B. This multiplication of categories represents what I have called a lowering of the internal density of citizen rights.

I do not want to generalize this as an argument against internal federalism and regionalism. For on the other hand institutional

fusion can also bring with it a lowering of the weight of citizenship. If political decisions relevant to local communities are taken only at a central national level, the basic political citizen right to participate in decision making that concerns one's own affairs will be neglected or even violated. In recent years, processes of devolution in administratively overcentralized states like Spain or France tried to redraw this balance in favour of regional citizenship. It is, however, important not to think of this as a zero sum game. Certainly centralization and decentralization can be combined in ways indicating an overall increase or an overall loss in citizenship.

As a general rule we can suggest that only such regional differences are justifiable with reference to the inherent principles of citizenship:

- that add to centrally established rights and do not replace or diminish them
- that do not represent different levels of citizenship, but only a regional breakdown of institutions incorporating identical citizen rights
- that are unconditionally transferrable in internal migration.

Some readers might object to the second and third rule that they may be valid for civil and political rights, but that regional differences have to be taken into account in social rights. If region A is rural and region B is urban, then the type of social benefits needed by both populations will be different. However, we should defend the principle that social rights ought to be formulated in as universalistic terms as possible. What is the problem with having a special form of assistance for poor farmers that is equally accessible in the whole territory but has a take-up rate of 25% in A and only 1% in B? There might be some administrative advantages in making it exclusively available in A, but this would clearly constitute a discrimination for 1% of the population of B which is not justifiable by reference to principles of citizenship.

Collective ethnic rights seem to be the obvious exception to this rule. However, seen under the perspective of citizenship it is

always preferable to make even such rights accessible in the whole territory even if a minority is heavily concentrated in only one region. This will not always be feasible (e.g. in bilingual school education), but only sticking to this principle as far as possible can guarantee that members of an ethnic minority do not automatically lose all special rights they need when they settle outside their original territory.

Obviously in most federal states these basic requirements for resolving the conflict between regional and central citizenship are rarely met and this is why such communities represent a lower density of citizenship, whereas in certain very centralized states citizens may rightly feel that the weight of their rights within the political system is lower.

4. An international topography of citizenship

In this chapter the example just used to discuss internal differences of regional citizenship will be applied to migration in a wider international context. I call this a topographical analysis because the basic question is, which bundles of rights are tied to certain locations in a structure defined by external and internal boundaries of citizenship. After having outlined this map, two questions for further analysis will arise. The first one is whether this structure itself conflicts with the basic principles of citizenship and in which way it could be modified to resolve such conflicts. The second aspect is to see this also as an 'opportunity structure' for immigrants themselves as individuals or collectives, in which they have two possibilities of acting; either to change their individual positions according to the rules embedded in the structure or to try and change the structure itself by collective action. This second aspect is beyond the scope of this present paper, although I am fully aware that it is essential for spelling out all the political implications of the analysis. However, I also want to defend my method of developing the argument. I feel that many analyses inspired by the rational choice approach are so eager to break

down a social structure to those choices facing individual actors that they fail to grasp its complexity and inherent tensions. I prefer introducing the actors only at a later stage, after the basic rules of the game have been sufficiently explained.

For the purpose of drawing this map, I will now reintroduce the terminology proposed by Tomas Hammar and combine it with the broader notion of citizenship which has been proposed in this paper. Citizenship in the context of international migration in this intentionally simplified view can take four or five different forms, which depend on two criteria: nominal citizenship on the one hand and residence on the other. Our starting point is the question, which citizen rights are dependent on those criteria.

**Diagram 3: Dependence of rights on residence
and nominal citizenship**

		nominal citizenship of a country	
		yes	no
residence in a country	yes	internal citizenship	denizenship ----- alien rights
	no	external citizenship	universal human rights

Full citizenship is generally only available for persons who are not only nominal citizens of a country but also residents of the same country. However, this citizen status will not be completely lost when the person leaves the country. As long as he or she remains a nominal citizens there is a bundle of rights connected with this status, which Brubaker and Hammar have proposed to label 'external citizenship' (Hammar 1990, pp.33f.). As we have already mentioned, external citizenship includes the right to return to the country of nominal citizenship as its most basic and universal element. But there is more in it than that. Under international law an external citizen may ask for diplomatic assistance and protection by the representatives of his home country. Thirdly

there are those rights which the person can exercise in his or her home country even when living abroad. Among this bundle may be rights to inherit, to own property, or even to take part in elections. A fourth type of rights included in external citizenship are those established by bilateral or multilateral agreements, involving the state of nominal citizenship and the state of residence, e.g. social benefits granted according to a principle of reciprocity. This already blurs to some extent the boundary between both communities of citizenship, as it is hard to decide, whether such reciprocal rights are granted to a person because he or she is a citizen of country A, or because country B recognizes him or her as having legitimate citizen rights as a resident in B. So external citizenship is important in many cases and it has often been explained that its full weight is recognized only when it is absent as in the case of expatriates and stateless persons or of political refugees, who are denied exercise of these rights. On the other hand it is obvious that there is also a significant gap between full internal citizenship and the amounts of rights available after leaving one's country.

While external citizenship represents a weakening of the impact of nominal citizenship due to a change of residence, this residence can in itself confer some rights irrespective of nominal citizenship. What Tomas Hammar calls denizenship is a special status of this type; a bundle of rights that depend on long term residence in a state. Residence can have two different meanings; either just being physically present in a certain country or being an inhabitant on a long term basis. There are some fundamental citizen rights which depend merely on being in a country and can even be enjoyed by short term residents like tourists. We shall call these alien rights. Many other rights are only granted after a person has been registered as a member of a private household, has taken up education or employment, or has spent several years in the territory of the state. I have indicated already in section 1.1. that the boundaries between alien rights and denizenship are quite fluid in most countries of immigration and vary broadly between different states. In diagram 3 this is symbolized by the dotted line.

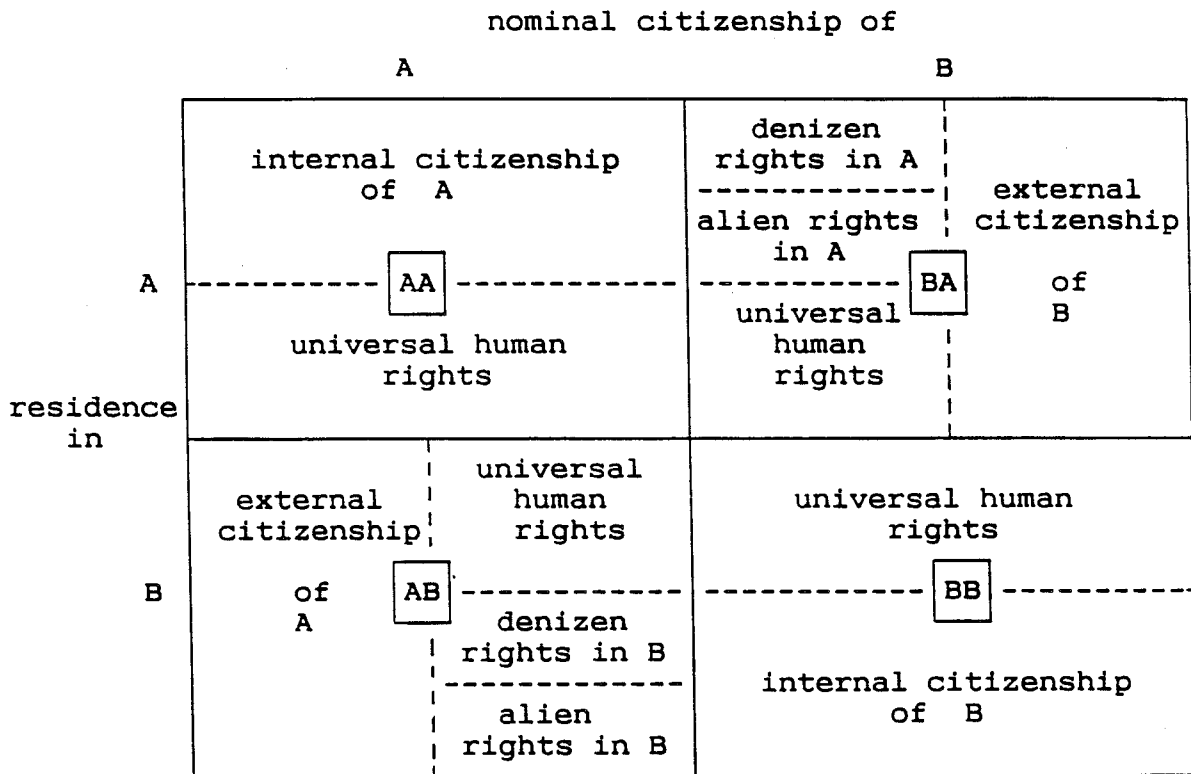
As a last category of citizen rights we can mention those that neither depend on nominal citizenship nor on residence. These are basically what we call universal human rights. Some people might object to using the term 'citizenship' for such rights which are at least theoretically available for every human being. But the essential features of any definition of human rights are identical with the definition of citizenship in section 1.4, which I have deliberately worded so that this identity should become obvious. Human rights are equal for all human beings, they are universal in a much stronger sense than nominal citizenship, and most importantly they too have to be incorporated in institutions guaranteeing their validity and exercise. Declarations of human rights constitute only a very weak form of universal citizenship. In this century there has been an important development of establishing human rights not only within the constitutions of individual states, but also within international law. Until not so long ago, international law was almost exclusively concerned with the relations between sovereign states and the regulation of those international areas which lie outside the effective jurisdiction of states. Since 1945 universal obligations of states towards individuals and universal rights of individuals within the territory of states have become a substantial and rapidly increasing part of international law. While this development has undoubtedly marked a progress in the formulation of human rights as norms, there is still a lack of corresponding institutions powerful enough to secure compliance with these norms.

In many respects human rights might seem to be no more than the residual set of rights which is common to the other three categories of internal, external and alien citizenship. But they can also substantially transcend these rights. Internal citizenship frequently does not offer sufficient guarantees against violations of basic rights by political authorities and repressive forces of the state. In these cases international arrangements for the protection of human rights can be of utmost importance. The frequency of convictions of western parliamentary states in international courts of human rights and subsequent changes in national legislation demonstrate this. The same is even more true for foreign citizens and alien rights. If we take as an

example the guarantee of non-extradition of foreign citizens for political offences or of non-refoulement of refugees (the duty to refrain from forcibly returning them to a country where they are likely to suffer political persecution, torture, or capital punishment), both are certainly not universally observed human rights, but the first has been laid down in a number of bilateral and multilateral treaties, and the second has been elevated to the rank of a general principle of international law (Grahl-Madsen 1980, pp. 34 ff.). These rights involve neither internal nor external citizenship, and though they can only be exercised in the country of present residence, they are not really dependent on being and staying in this country. Theoretically these rights should be guaranteed just in the same way in case the person decides to take residence in a third country. While the exercise of every right is somehow tied to specific states and their institutions, the special character of human rights as opposed to what we have called alien rights is that they should be transferrable across national borders without any restrictions.

In a next step we shall now extend diagram 3 so that it no longer categorizes citizen rights but persons enjoying these rights. For the sake of simplicity I will merely consider the context of migration between two states, A and B, and the total set of persons will be limited to nominal citizens of both states; third countries as well as stateless persons and dual citizens will not be included in this diagram.

Diagram 4: Citizen rights in two states depending on residence and nominal citizenship



Note: Persons are categorized AA, AB, BA, and BB; the first letter refers to the country of nominal citizenship and the second to the country of residence.

Only now we can see how differences between categories of citizen rights are related to differences in the citizen status of individuals. As I have pointed out at the beginning of this chapter this is the level of analysis, on which persons of equal positions emerge as having similar interests based on their structural location and thus can be seen as potential actors in a process of extension of citizenship.

The decisive step in my argument is that we now should look at the whole diagram as one single community of citizenship, in which there are two different kinds of internal boundaries; a first which runs between the societies of residence and a second which marks the difference between internal citizens on the one hand and

denizens and aliens on the other within each of these societies. Both boundaries can be seen as internal because there are strong ties keeping together the parts which they separate; the first one is reconnected by common membership status of internal and external citizens, the second one by common rights based on residence for internal citizens and aliens. The two boundaries are also intimately linked between each other--the second one can be seen as emerging from turning the first one outside in. If there were no migration we would just have the two communities AA and BB, separated by state borderlines. Migration has the double effect of modifying the external character of this boundary and of redoubling it within the societies of residence as the boundary between nominal citizens and aliens.

The four categories of persons in diagram 4 all enjoy different bundles of rights (assuming that the relevant traditions and current legislations in A and B are not identical). Any such difference can then be interpreted as a deviation from or even violation of the basic egalitarian and universalistic principles of citizenship.

In our presentation differences between internal and external citizenship, alien rights, denizenship and human rights can be compensated to some extent within one single category. However, if we take a closer look at some examples, we shall find that in most cases there can never be full compensation, which would bring an equalization of citizenship between the four categories. Let us assume that in state A there are little effective constitutional guarantees against police harassment of suspects and prisoners, but A is a signatory of an international convention on human rights, giving everybody the right to institute proceedings against his or her government in an international court. In our terminology that would mean that in state A internal citizenship has less weight, which increases the relative weight of the human rights element in their citizenship. But however important such international guarantees might be, they will rather make visible deficits in internal citizenship, but never be able to fill them.

The same is true for ABs and BAs with the modification that for many immigrants their external citizenship can have such importance that they are not really interested in either denizen rights or in gaining the nominal citizenship of their country of residence. Some situations in which external citizenship for ABs can outweigh the elements of citizenship granted by the country of residence B are the following: the intended residence of ABs is only temporary; state A can grant his citizens abroad very effective protection; ABs enjoy a privileged social position in B which makes them less dependent on explicit rights; there are little or no denizen rights in B and access to naturalisation is denied. I do not think that these situations generally apply to postwar labour immigration in most European states or in North America. Still it seems that external citizenship has much weight for many of these immigrants as naturalisation rates are often very low and immigrant movements demanding extensions of denizenship are rather limited in scale. If we see immigrants as actors trying to optimize their citizenship position, this attitude is not rational. But there are other elements which help to explain this and most important among them is the symbolic weight of nominal citizenship enhanced by nationalism and the formation of ethnic communities among immigrants in the country of residence.²⁸

So we can assume that there are substantial differences between the citizen statuses enjoyed by the four categories of persons in the diagram which cannot be fully compensated by the combination of different bundles of rights within each of the categories. From a normative point of view any such difference should be seen as illegitimate. Applying it to concrete examples we could somehow calculate an overall discrepancy of citizenship for two states that are connected to each other by migration movements filling up the categories AB and BA. But this still would not provide a guideline for political action, as there are many different ways in which this overall discrepancy can be reduced. There are twelve logical possibilities, if we count any change in citizen rights bringing closer one category to a second, as one such strategy.

²⁸ This will be explained in more detail in chapter 5.

Half of these seem to have some significance from the point of view of specific populations, but there are strong inhibitions for state authorities to accept changes along these lines. In a formal notation we could identify these six as:

AA -> AB, BB -> BA, AB -> AA, BA -> BB, AA -> BA, BB -> AB.

We shall first briefly consider each of these strategies in turn. Adjusting the position of AA to AB (or of BB to BA) would only make sense, if internal citizenship in A is less valuable than citizenship in B. That can certainly be the case. Democratic experiences of exiles and emigrants in a country B may well inspire struggles for citizenship in A. However, authorities in A will strongly resist such an import of democracy from outside unless they can be forced by a strong internal movement.

The reverse change occurs when AB is adjusted to AA (or BA to BB). There are two possible motives for that. Either external citizens feel they are unjustifiably excluded from rights of internal citizens. (The most frequent case is the demand for participation in national elections of the home country). Or deficiencies of citizenship in B can be measured against the full range of internal citizenship in A. While the first demand is quite often accepted once it is raised by an exile community²⁹, this is rarely effected by the substantially reduced political power of those who live abroad, but mostly depends on corresponding political interests at home. The second argument, however, is much less acceptable for any sovereign state B, who will in most cases insist on its own internal citizenship being the only acceptable benchmark for the rights of aliens in his country. The type of rapprochement, which we are presently discussing represents also what happens in a political fusion, in which B is assimilated to A. But it is rather the result of this fusion than a feasible strategy towards it.

29 In Austria, voting rights were granted to citizens abroad only recently.

Finally, adjusting AA to BA (or BB to AB) will only make sense if external citizenship for BAs is much more attractive than internal citizenship of their country of residence and the nominal citizens of this state would demand that their status should be raised to that of the alien population. We have discussed this as a possibility in decolonialisation, when previous exclusive white citizen rights are extended to the general population, but this certainly does not apply to the more general case of labour migration.

This leaves us with six strategies which should be considered in more detail as they will turn out to be of greater significance than the ones just mentioned. We can sum them up into three:

- (1) A reciprocal adjustment of BA and AB
- (2) A reciprocal adjustment of AA and BB
- (3) An adjustment of BA to AA (or of AB to BB).

In order to decide which of these strategies serves best the aim to reduce the overall discrepancy of citizenship, we will have to introduce additional normative postulates and empirical assumptions. The normative postulates should help us to evaluate the relative importance of deviations from the fundamental principles of citizenship in each pair of comparisons; the empirical assumptions should tell us something about the likelihood that these comparisons actually are made by actors in the structure themselves. Thus we shall obtain a link between the normative and the political level of analysis.

As a starting point I shall propose the following postulates:

- (1) Discrepancy of citizenship occurring between different categories of persons living within the same society weighs more heavily than that between persons living in different societies.
- (2) Discrepancy of citizenship occurring between positions which can be held successively by identical persons weighs more heavily than that only occurring simultaneously between different persons.

The first postulate gives more weight to 'membership in a society' than to 'membership of a state'. The reason for this is that the density of interactions and the communality of interests are usually stronger between co-residents of the same territory than between individuals spatially separated but linked by common nominal citizenship. An increase in the density of citizenship within state territories became an urgent demand with the increase in the internal density of interaction, brought about by the transition to industrial society. Of course, the frequency and intimacy of interactions are still very uneven within the large territories of nation states, ranging from daily contacts within families to only ephemeral encounters in public spaces. What is decisive for my argument are those interactions from which perceptions of common interests can arise. Where there are shared interests, persistent inequalities of rights need special legitimation.

In the case of immigrants this is provided by the belief that full citizenship must be confined to co-nationals and access for foreign citizens presupposes some extent of assimilation into the nation as a cultural community. Nationalism not only makes it perfectly legitimate to give different rights to groups with identical interests, but it can actually help to create a difference of interest that confirms the legitimacy of unequal rights. It reinforces social segregation and thus works to reduce the density of interaction between groups of different ethnic and national origins and it turns ethnic solidarity into an especially valuable resource for disadvantaged groups who have been deprived of equal chances for success. Market structures which enhance competition for scarce resources in most cases do not promote colour blindness, but encourage the formation of alliances along ethnic lines as a rational strategy. Thus a preconceived ideological distinction which is completely alien to principles of citizenship can be turned into real differences of interest. What I propose, is to disentangle this quid-pro-quo in sticking to the rule that living together in one society should entitle everybody to equal rights and additionally there should be certain collective rights for disadvantaged groups to undo discrimination which cannot be justified with reference to citizenship.

Having established the validity of the first postulate for societies governed by national states, we can also apply it to smaller communal forms of social life. Discrepancies of citizenship within a small community may sparkle even stronger tensions than those within a larger anonymous society. Different positions of citizenship within a single family household should be seen as especially intolerable. So priority should be given to equal access to either denizenship or naturalisation for members of such households, overriding other criteria like general waiting periods.

But what about families, separated by migration? If we only stick to the criterion of common residence as entitling to equal citizenship does this justify restricting family reunification? That is certainly a problematic view. Refuting it urges us to drop the purely topographical perspective, in which all persons are already located somewhere in the structure, and to look at the dynamic aspect of transitions between different positions. Generally speaking, this is what migration as a process is all about. It leads from not only from one territorial location to another, but also from one status of citizenship to another.

Transitions between positions of citizenship is where the second postulate applies. In its simple form it stresses biographical experiences of such changes as opposed to those which arise from outside observations of other persons. But we could extend it also to include experiences of others which are highly relevant to a person because of strong social ties to these. Migrations or changes of legal statuses of close relatives, friends or neighbors may well be used as a relevant yardstick to evaluate one's own situation and perspectives.

This postulate has two obvious implications. The first is that a deterioration in the personal status of citizenship weighs especially heavy according to that criterion. In migration there are many forms of such a deterioration. By emigrating migrants lose the internal citizenship of their country and find themselves in the position of aliens when arriving at their target. In many

countries of immigration they are in constant danger to lose parts of their acquired denizen rights, when they fail to meet certain conditions such as continuous employment, uninterrupted residence, no criminal record etc. And finally they are under threat of losing their residence permits or even being deported as long as they are not naturalised, which would mean an involuntary exchange of denizenship for the old internal citizenship and this is certainly again a deterioration, not because of the relative content of both bundles of rights, but because of the forced character of the change.

The second implication is that an amelioration expected for the future might make a present lack of citizenship more tolerable. First, this obviously needs some temporal restraints. The longer obligatory waiting periods before a better citizen status can be reached, the less justifiably is the discrepancy (cf. Carens 1989). Secondly, we need some objective criterion of tolerability and should not accept expressions of personal dissatisfaction as a reliable indicator. The fable of the fox and the sour grapes can be used to illustrate the case, when citizenship is subjectively devalued because it is so difficult to obtain.³⁰ The fact that immigrants are not always personally interested in a better position of citizenship in no way legitimizes confining them to their present status, if a better one could be easily made available to them.

The acceptable trade-off between present grievances and future gains must be strictly limited by another consideration. The second postulate does not only refer to changes that have actually taken place but to potential transitions. Thus it is not merely an effective deterioration of status which violates our principle, but also any unjustifiable obstacle on the way to a position of full citizenship. Removing such obstacles in a radical way means

30 This constellation is exactly the reverse of the one, analyzed by Peter Schuck as 'devaluation of American citizenship' (Schuck 1989). It seems that citizenship can either be devalued subjectively by making access too difficult (our present example) or objectively by making access too easy (Schuck's point). The sour grapes paradox, which helps to illustrate the first case is explored by Jon Elster (1984).

changing transitions from a possibility into a right. This is the subject of the following chapter.

If the second postulate had to be defended just on its own, we would run into difficulties. Why should personal experience of inequality establish stronger claims than simultaneous inequality between cohabitants? If we do not give a clear priority to the first postulate we would hardly ever arrive at proposals for fundamental changes in citizenship. All that should be done according to this second principle alone, is to remove some stumbling blocks on those paths to improvement that have been already established. Only if the first postulate has already been firmly established, the second one is reasonable and important. In some cases it just gives additional weight to arguments based on the first postulate. But in others it stretches the imperative of equal citizenship beyond the boundaries of common residence.

In order to apply the second postulate, we should also know something about the relative frequency of transitions from one position to another and we should give more political urgency to discrepancies that occur in frequent transitions than in rare ones. The following is an assumption about numbers of nominal citizens of A changing their position in our diagram between two points in time. This is just a hypothesis that should illustrate a general case and can be modified whenever applied to concrete examples for which data are available:

$$\begin{aligned} n_1(AA \rightarrow AB) &> n_2(AB \rightarrow AA) > n_3(AB \rightarrow BB) > \\ &> n_4(AA \rightarrow BA) > n_5(AA \rightarrow BB) > n_6(AB \rightarrow BA). \end{aligned}$$

n stands for the number of persons and \rightarrow symbolizes the transition of a person from one category to another. As diagram 4 is symmetrical, we get a second analogous formula if we exchange A for B and B for A in the above.

Our assumption says that the most frequent change of position will be for a citizen of A to enter country B (adding tourists and immigrants). Next in frequency is return migration of citizens of A to their country (tourists and temporary migrants coming back,

while emigrants stay in B). Already much less frequent will be naturalisations of citizens of A in country B. Fourth comes a transition in which citizens of A living in their country change their nominal citizenship (e.g. by getting married to a citizen of B, or by choosing the citizenship of their parents at their majority, while they had been attributed citizenship of A before under *ius soli* legislation). There may also be some parallel changes of nominal citizenship and residence (this could be short term naturalisations of immigrants in B or ethnic citizen immigration into this country). Least frequent according to our assumption, but not completely excluded, is an inverse change of citizenship and residence (think of a person of immigrant origin and foreign citizenship in B, who naturalises but then decides rather to live in the country of his or her origin).

If we illustrate this with a numerical example, we could assume that populations AA and BB at time t_1 are 1,000,000 each, and AB and BA 100,000 each. Let us further assume that the numbers of transitions are identical for citizens of A and of B and that we count the following frequencies: $n_1 = 1,000$, $n_2 = 900$, $n_3 = 100$, $n_4 = 10$, $n_5 = 5$, and $n_6 = 1$. Then the overall change in the distribution at time t_2 would be minimal; there is a slight decrease in AAs and BBs to 999,990 and a corresponding increase in alien residents AB and BA to 100,010. But the number of persons, who have experienced a change in their position of citizenship is quite substantial, it adds to 4,032. Now the bulk of them might have been tourists or short term migrants, who were not deeply affected in their biographies by this change, but even if we exclude all those who first left their country of citizenship and returned to it in the same interval of time, there remain 432 persons, for whom the experience of transition must have marked an important stage in their life.

If we now turn back to the three strategies for reducing discrepancies of citizenship in our model and apply the normative principles and the empirical assumption, we shall find that strategy (1), bringing AB and BA closer to each other should certainly not be on top of our agenda. Transitions between AB and BA are the most unlikely, concerning only 2 persons in our

example. The first postulate, giving priority to equalizing citizenship among common residents, does not apply in this case. Strategy (2) mutually approaching the positions of AA and BB can only claim to be slightly more important because of the second normative postulate, as it involves a somewhat larger number of persons (10 in our example). There is, however, little reason for the bulk of residents in A and B, separated by a territorial border, why each of both groups should be strongly interested in setting their standards of citizenship according to the model provided by the other state. Strategy (3), however, bringing closer alien residents and denizens to internal citizenship, concerns the largest number of persons (200 in the numerical assumption) and it follows the first and overriding postulate that common residence is the foundation of the strongest claim to equal citizenship.³¹

Thus we should certainly give priority to the third strategy in general cases and rank the second one in second place. It is important to remember at this point how we have arrived at that ranking. First, we excluded half of all possible strategies as only applying to special cases and being not very convincing as arguments in a struggle involving the populations interested in the change on the one hand, and state authorities on the other. Secondly, we introduced two normative rules that should apply from the point of view of the populations concerned. Thirdly we calculated how many persons are likely to be affected by the different changes. This can either be seen as part of the normative argument (grievances of larger numbers should be treated first)³² or of the political one (struggle for changes, in which larger numbers have stakes, are more likely to be successful).

31 The remaining 3820 transitions are related to the six other possible adjustments of citizenship positions, which we have discussed earlier and discarded as having little significance for political strategies. The common residence criterion would apply to only 20 of them.

32 See the long controversy sparked by John M. Taurek's article: Should the Numbers Count? (Taurek 1977). The introduction of numerical calculation at this point of the argument might seem to contradict my earlier statement in chapter 3 that the number of persons enjoying a particular combination of rights should not be taken as an indicator for the importance of these rights in a

What we have not included in this sequence of arguments is a proper assessment of the point of view of state authorities and possible changes that could be seen in their interest. A reformist strategy would certainly try to find out, which changes are most likely to be successful because state authorities might be inclined to concede them more willingly.³³ A detailed analysis of specific state interests in relation to citizenship is beyond the scope of this paper. So for the present purpose I would suggest to accept ongoing legal evolutions of citizenship which have not been forced upon governments by popular movements as an indicator of

structure of citizenship. The difference is that we are now comparing categories of persons, whereas in the previous chapter we tried to correlate rights. I can illustrate the distinctive viewpoints with an extreme example. Assume that there is in a society a general right of life, with an exception for one person only, the king, who is killed in ritual regicide after 10 years of rule. The person chosen to become king can always refuse his appointment. For many, however, the honour of being king is more important than the certainty of being killed at a later date. As seen from the viewpoint of categories of citizens, establishing the universality of the right of life might not seem an urgent priority in this society. The argument about numbers is primarily related to political interest of this kind. But still one single exception is enough to violate the principle of universality and certainly changes the quality and nature of the right itself.

33 I use the term state authority to characterize actors with specific interests embodied in state bureaucracies. The real picture is more complicated of course, involving also different classes and many political currents among the general population, some of whom oppose an extension of citizen rights because they see them as their legitimate and exclusive privilege. However, an extension of the argument to include this third type of actors should not lead to different results. If there were just two groups of actors, one which is strongly interested in extensions of citizenship (in most cases including immigrants and 'nationals'), and a second one which is strongly opposed, because it wants to maintain the exclusivity of certain citizen rights, the fight would be decided by the relative strengths of power resources and means of mobilization of the two. There may be room for either compromise or defeat, but there is no possible coalition of interests in this constellation. The situation gets only more complex if the state is introduced as a third actor who can share some of their interests and engage in coalitions with both groups. There is no doubt for me that present governments in most countries of immigration are largely dependent on coalitions with groups firmly opposed to the extension of citizenship for immigrants. But some developments cannot easily be explained without assuming partially specific interests of governing bureaucracies.

what shape these interests might take. What emerges from empirical observations of this kind is interestingly enough a reversal of the list of priorities, which we have just established.

The most common development on an international scale has been a rapprochement of citizen rights along the lines of AB <--> BA. This is generally called the 'reciprocity principle'. If a state B is willing to concede a certain right to nominal citizens of A, then state A should also give a similar right to citizens of B in his territory. This principle has been mainly applied to social rights, but to some extent also to political rights. It has less importance for civil rights for the simple reason that most of these are now seen as human rights that should be granted by every state to everybody. In a number of agreements local or even national voting rights for aliens have been conceded to those groups, in whose countries of origin a citizen of their present country of residence would be also allowed to vote. Among others, Portugal and Brazil, the UK and the Irish Republic, Finland and the Scandinavian countries have concluded such arrangements. In some cases, one of the states introduced general local voting rights for denizens, while the other restricted these rights to citizens of the first country only. So reciprocity was a motive only for the second of the partners. This is true for Finland and the same type of solution was intended in the German province of Schleswig-Holstein before the Constitutional High Court decided to abolish local voting rights there and in Hamburg. The reciprocity principle has found much wider application in social rights, where it lead to the formation of a 'welfare state cartel' excluding resident aliens, who had immigrated from poorer countries (Bauböck 1988).

Reciprocal adjustment of AB and BA is a strategy to enrich external citizenship with elements of the internal one of the country of residence. The exercise of external citizen rights always depends on some form of reciprocal agreements, under which a state allows the representatives of another state to operate with relative freedom within his territory in taking care of its citizens. In the form which we are discussing here, this principle goes beyond external citizenship to some extent, as the provision

of benefits is shifted from the state of nominal citizenship to the state of residence. However, entitlement is ultimately still founded upon nominal citizenship and not upon being a resident. This becomes especially obvious in cases where social rights are immediately accessible to citizens of a particular country, whereas persons of other origin have to comply with criteria for denizenship like long waiting periods or continuous employment before obtaining the same rights.

It is easy to see, why this principle can be of special interest for state authorities. While it does not generally strengthen ties between the *populations* of both states, it creates a network of mutual engagements and obligations between states that can enhance the overall stability of the international political system and further the interests of all states involved.

The second strategy involving a mutual adjustment of internal citizenship between two states has a wide range of applications in international politics, too. This is not a principle of reciprocity, but of convergence. It can only relate to internal citizenship and human rights but not to the special position of citizenship of immigrants and alien residents. We can certainly observe a process of gradual convergence in this respect at least among European states of immigration since World War II. This is not only true for the content on internal citizenship but also for access to it. The wide differences between naturalisation principles based exclusively on *ius soli* or *ius sanguinis* have been gradually eroded by introducing mixtures of both in most states and the strengthening of a third principle referring to residence, which Tomas Hammar aptly proposes to call *ius domicili*.³⁴ Even more important than the gradual convergence of purely internal citizenship has been a process of extensive human rights legislation on an international scale, the European Convention on Human Rights being its most important contribution as it restrains government interference with these rights more effectively than other treaties and declarations.

34 see Brubaker 1989b, de Rham 1990, Hammar 1990

While the convergence of internal citizenship is of little immediate concern for immigrants who are resident aliens either of their own will or because they are denied naturalisation, they have a strong interest in the extension of human rights. Any progress in this matter will have positive side effects on immigrants in positions AB and BA, as can be seen in diagram 4. From the point of view of state authorities the same process involves more problems than rapprochement based on reciprocity, because it is a much stronger restriction on sovereignty. I have already contended earlier in this paper that human rights legislation can be effective only if there are international institutions embodying and guaranteeing these rights against abuses by national governments. For governments to agree to this there must be a positive balance in the trade-off between losses in sovereignty and gains from membership in international coalitions. The gradual convergence of internal citizenship can be partially explained rather as a result of international cooperation than as a strategy consciously employed by governments. But accelerating this convergence can also be of strategic value in the building of permanent coalitions and in processes of 'slow fusion' like the present one within the EC.

Why should the strategy of extending human rights not be the most valuable one from the migrants' point of view? Some people would certainly argue that the best way to equalize and universalize citizenship in the world is to transform citizen rights into human rights. While I completely agree with the normative foundations of this view, I have some reservations about its feasibility as a political strategy. If we exclusively rely on progress along this line, it will be a very slow one. This is because effective human rights legislation needs a consensus of a large number of states and governments and generally speaking the weight of human rights will be less than that of either external citizenship or denizenship. By strengthening the intermediary positions between human rights and full citizenship we can substantially increase the overall weight of the package and improve the position of specific populations. In a world of nation-states it is for example rather utopian to hope for universal voting rights, which are transferrable across borders just like human rights. But it

makes a lot of sense and has already had some success to fight for voting rights of aliens that meet some residence criterion.

How do governments evaluate this third strategy of adjusting alien and denizen rights to internal citizenship, which has turned out to be the most important, even if not exclusively relevant, from the point of view of migrants? They can pursue unilateral, bilateral or multilateral changes of policy along this line.

Unilateral changes involve only the country of residence. Their advantage as a strategy is that they cannot be inhibited or delayed by external sovereign parties. There may be some consultations with representatives of the sending states, but in many cases these have not really influenced decisions. The substantial extension of denizenship which took place in Sweden in 1975 could serve as an example. Other Nordic countries followed only at a later stage. Leaving aside the above mentioned normative reasons from the point of view of populations, which state administrations or political parties may share to some extent, what sort of governmental self-interest can be involved in such decisions? They may hope to gain support from immigrant populations who are seen as a future electorate (especially when local voting rights are granted, but also when naturalisation is expected). A second reason could be fear of internal disruption by a large population who lives at the margin of society and cannot voice its grievances through channels open to citizens. Extending citizenship can also be seen as a vehicle to 'integration' of this sort. A third reason might exist in some countries which had been colonial powers. By giving immigrants from ex-colonies the status of nearly full citizens, governments may hope to keep up valuable political and economic ties to these countries and to be able to act as protecting powers in the international arena. Fourthly, If a government encourages immigration for demographical or economic interests, it will be more inclined to grant citizen rights, as these may work as an additional pull factor. Finally long term settlement of immigrants will strengthen all these governmental interests, while short term or fluctuating migration will weaken them.

In most cases such arguments are outweighed by other interests such as: keeping access to full citizenship restricted to a population whose loyalty is based on cultural assimilation into a national community; using restrictions of rights for resident aliens to import, allocate internally, and export labour power according to economic needs of employers; keeping immigrants socially segregated from the national population in housing areas and in the education systems.³⁵ Since 1973 West European states have been rather engaged in a competition of fighting immigration than of attracting it. Adding to that the pressure exercised by groups of the population and parties that want to restrict immigration and equality for immigrants, it will turn out that unilateral ameliorations of denizenship will need either a favourable political conjuncture or strong internal pressure. The slow process of denizenship which has taken place nevertheless can be mainly attributed to the fact that so called guest-workers turned out to be long term immigrants and their settlement was even reinforced by the attempts to stop new immigration. Only few observers have yet fully taken into account the effects of new immigrations in recent years. There are indications that these waves could take more oscillating forms. It seems that the process of increasing denizenship has come to a temporary halt due to this political concern about new immigrants.

Bilaterally agreed changes merely cover nominal citizens of a single state of emigration. Thus they are relevant in cases where most immigrants come only from one or few countries and relations between sending and receiving states are stable and friendly. Michael Walzer proposes such agreements for 'guest workers' as one way "to set immigrants on the road to citizenship". "The host countries might undertake to negotiate formal treaties with the home countries, setting out in authoritative form a list of 'guest

35 I do not want to suggest that inequality of rights is a necessary condition for social and economic segregation, but it certainly contributes to it. While in some countries this may rightly be seen as a question of institutional racism which can only be undone by introducing collective rights, in others with long and ongoing traditions of legal discrimination of immigrants, abolishing these will be the first priority.

rights'--the same rights, roughly, that the workers might win for themselves as union members and political activists ... Then, even when they were not living at home, the original citizenship of the guests would work for them ... and they would, in some sense, be represented in local decision making." (Walzer 1983, p.60).

Bilaterality does not necessarily involve reciprocity. There can be an exchange of interests, in which the granting of citizen rights to alien residents is only one element in a larger package. In many cases, however, sending countries are very reluctant to press such demands. Even if the often proclaimed policies of encouraging return migration are sometimes just propaganda, governments of sending countries are mostly interested in strengthening the ties of emigrants to their home countries. Not least so because they hope that this will keep flowing remittances. Denizen rights and especially easy naturalisation are therefore often seen to run counter to the interest of sending countries. Additionally there may be political fears that emigrants enjoying democratic rights will escape the control of the regimes to which they are bound by nominal citizenship and might incite resistance after returning home.

Some regulations arranged according to a principle of reciprocity can also be listed among the changes we are discussing here. If there is no migration between two countries in both directions, reciprocity of rights will always be largely a fiction and will be effective only unilaterally. When there are many BAs but almost no ABs, then an agreement to grant BAs some rights under the pretense that ABs will enjoy the same rights in country B only conceals the fact that such measures are aimed at bridging the cleavage between aliens and internal citizens in A. Such fictive reciprocity can, however, considerably narrow the margins for changes, as it presupposes comparable internal citizen rights in sending and receiving countries.

As an alternative to reciprocity we could suggest a principle of complementarity of interests. This assumes that interests between sending and receiving governments can and will be often contradictory, but need not be so in every respect. There can be

interests which complement each other so that migration and citizenship for migrants emerges as mutually beneficial. If we take an example that leads us beyond the frame of our diagram, we could assume that there are many reasons for the state of residence to encourage naturalisation of long term immigrants. But there may be other reasons for a sending state to be reluctant in releasing its citizens from their nominal adherence. If the guiding line is reciprocity, then both states will agree on procedures about a change in nominal citizenship that will not make it easy for immigrants in their territories. If the receiving state decides to act unilaterally, it will grant citizenship according to its own criteria and probably has to reckon that there will be a large number of informal dual citizens, who have not been released by their former state. However, if both governments see their interests not as mutually exclusive, they might well decide to introduce a form of dual citizenship that is recognized in both countries.

It will be rarely only their own point of view, which urges them to do so, but a pressure to take into account the interest of immigrants themselves. Migrants are continuously forced by the particular circumstances of their lives to reconcile conflicting interests between orientations towards the home country and the state of residence. The best solutions to these subjective conflicts will be those, in which they do not have to decide for one of their interests against the other, but find a way of combining them. The extended acceptance of dual citizenship could be such an innovation in the international political system, generated by the immigrants' refusal of national assimilation.

Multilateral changes finally offer greater chances to include a larger number of immigrants in several countries. If they are guaranteed by international institutions they are also less dependent on conjunctures of interstate relations. Additionally they can include provisions for aliens of others than the signatory states. A governmental motive for entering such agreements could be for example an equalizing of conditions for economic competition, which are often biased by different access

to reservoirs of immigrant labour and different legal standards for the employment of aliens.

Going farther along this path one would arrive at a specific corpus of alien rights as part of universal or continental conventions on human rights. This must still be classified among strategy (3) and not (2) in my notation, as it involves the specific difference between resident aliens and internal citizens and would allow for special rights which apply to the former but not to all human beings. The right of asylum can be mentioned as the most important among very few rights that have been formulated in this way. However, multinational cooperation can have its drawbacks, too, as this example demonstrates. In the last decade we have witnessed a process of infringement on this right by Western European governments, in which the most restrictive practices of each member state were taken as a yardstick for adjustments by the others (cf. Joly 1989). This development proves that institutional guarantees of the right of asylum, mainly incorporated in the UNHCR, presently are much too weak to maintain against mounting pressures the level of a basic universal citizenship, which this right proclaims. A second field in which international institutionalization of alien and denizen rights seems urgent, is the right of family reunification. It should be specified, in which way article 8 of the European Convention on Human Rights applies to immigrant families.

5. Naturalisation and dual citizenship as rights of transition

In the last chapter we discussed strategies for a gradual equalization of citizenship between different categories of nominal citizens and residents within communities larger than nation-states. My main argument is that continuous movements of mass migrations in several regions of the globe create such new types of communities by multiplying social ties across national boundaries. The economic and social foundations of this process were outlined by Robin Cohen (1987), who analyzed the formation of regional political economies and supranational labour markets,

within which migration becomes an almost permanent feature. In present capitalist states, a fundamental mismatch between these economic developments and political ones has led to an erosion of citizenship. Societies, in which up to 20% of the adult population is disenfranchised, are hardly more democratic than those before the abolition of property restrictions and male exclusiveness in voting rights. This mismatch becomes especially obvious in the ongoing West European integration. Present immigrant populations as well as likely future migration flows mainly come from outside those states, which intend to establish a limited form of common transnational citizenship.

But is a policy of equalization of rights the only way to overcome discrepancies of citizenship? Political liberalism has often stressed that the real enemy is not inequality, but obstacles for movement and mobility. In diagram 4 there are three different types of transitions: international migration, the transformation of aliens into denizens, and naturalisation. If barriers to all of these transitions were removed, would there still be any reason to demand equal citizenship? Whereas I have so far argued in favour of flattening differentials of rights by raising the lower levels, this strategy is about building bridges, which make it easy to get from one level to the next.

I shall first stress the merits of the argument. Without any doubt, the possibility of free movement between states and free choice of nominal citizenship would greatly diminish grievances resulting from losses of rights in the migration process. But ultimately a lack of rights can only be compensated by additional rights again. Illegal immigrants, who slip over the border without any right to do so, thereby gain access to segments of labour markets, but remain almost totally excluded from citizenship after immigration. However, if transition between the statuses of citizenship is not just a possibility, but becomes itself a citizen right, this can be a contribution to the equalization of citizen rights. I want to demonstrate this in the following considerations on naturalisation and dual citizenship.

The most interesting controversy in Brubaker's book is the one between Joseph Carens, favouring a right of naturalisation, which is only conditional on a brief period of residence³⁶, and Kay Hailbrunner, who thinks naturalisation is a political prerogative of the nation state that should not be submitted to moral considerations. I shall not repeat their arguments here, as Hailbrunner's approach is not concerned with an extension of citizenship anyhow and thus is clearly different from mine. I can agree with Hailbrunner that the issue is not only a normative, but also a political one, but strangely enough he counts as 'political' in his article exclusively interests of a state to retain sovereignty and to control its relations towards other states, but neither the interests of immigrants nor those of the resident population as a whole to live in communities of equal citizens rather than in a society of several classes of political status. (Hailbrunner 1989, pp. 74f.).

Obviously the principles of citizenship outlined in this paper would give strong support to Carens's proposal. The more interesting question is, whether a right of naturalisation should be seen as an alternative to denizenship. This is an ongoing debate in many states of immigration, which is fuelled by two related developments. The initial wave of expanding denizen rights after 1975 seems to have come to a temporary halt. I can see two reasons for that. First, the political pressures on state authorities and incentives for them to extend rights of resident non-citizens have diminished. Governmental as well as opposition parties in Germany, Belgium, Austria and other countries have pointed to constitutional barriers against local voting rights for alien residents (Rath 1990, pp. 128f.), racist and anti-immigrant movements have lead to withdrawals from previous commitments in this issue (as Mitterand's in France), the priority on internal integration within the EC has reinforced attempts to curb new immigration, and that has weakened the reform impetus in favour of social and other collective rights for immigrant populations. Secondly, the number of alien residents has been steadily growing

36 Carens derives his argument from Michael Walzer (1983, pp. 60f.) but radicalizes it, admitting only time as a legitimate restraint on a right of naturalisation.

and naturalisation rates have been very low in most countries even after 1973, when new immigration was strongly restricted to family reunification. Simultaneously, return migration of 'guest-workers' has been much lower than expected. There is now growing concern among politicians about the dangers of permanently settled populations whose legal status as aliens is an expression of their political, social and cultural alienation. Some factions even of conservative parties in Germany and Switzerland, which have been most restrictive in their naturalisation policies, now advocate liberalization. Naturalisation is seen as an instrument to defuse tensions created by long term immigration. Many liberal and left-wing currents support this political move, because they see it as beneficial for immigrants (Leggewie 1990, pp.61f., pp.120f.)

Remedies for low naturalisation rates depend on the diagnosis of the phenomenon. The following possibilities emerge from diagram 4:

(1) Naturalisation is attractive, but access is too costly or difficult.

(2) Naturalisation is not attractive enough when compared to the previous status. This explanation can be split into two:

(2.1.) External citizenship is more attractive than internal. The costs of losing external citizenship outweigh the benefits of naturalisation.

(2.2) Denizenship is almost equally attractive as internal citizenship. Even minimal costs of transition can outweigh the marginal benefits of naturalisation.

There can be large variations in the relative importance of these three aspects between different states and immigrant populations. We shall need more empirical research in this matter. Tomas Hammar's contribution may be the most instructive so far, as he takes into account not only the rules for access to internal citizenship, but also the immigrants' propensity for naturalisation (Hammar 1990, pp.71 - 105). However, my hypothesis for further research is that these three explanations are

insufficient. The symbolic ties between citizenship and national identity may decisively restrict the availability of options.

(3.1) Immigration states in which nationhood has been historically conceived in terms of closed cultural communities discourage naturalisation not only in their formal rules but also in their political culture.

(3.2) Refusing the nominal citizenship of the country of immigration can be seen as a symptom of the transformation of immigrants into ethnic minorities, who do not adopt the national identity of the country of immigration.

In this explanation low naturalisation rates might be less resulting from rational choices of immigrants within the opportunity structure of citizen rights, but rather indicate a much more fundamental change; the slow and strongly resisted disintegration of old patterns of national assimilation (see Bauböck 1991a).

Different combinations of all these elements should sufficiently explain the empirical variations between countries of immigration and immigrant populations. Exploring this must be the task of further comparative research. But each of these explanations also has normative and political implications, which are relevant for our present concerns. If we want to establish naturalisation as a right, we shall be only concerned about obstacles, which ought to be removed: (1) easy access, (2.1) agreements with sending countries about the maintenance of certain elements of external citizenship (such as the possibility to inherit from family members abroad or to own property there), (3.1) fighting nationalist and racist discrimination. We cannot rule out that all this will not substantially increase naturalisation rates, but that is not our immediate target, if we want to guarantee the right of transition into internal citizenship.

However, if the political priority is on higher quotas of naturalisation among immigrants, it is quite rational to argue for increasing pressure by: (2.1) depriving them of certain rights of

external citizenship, (2.2) strictly limiting their rights as denizens,³⁷ (3.2) promoting cultural assimilation. Each of these strategies will have the effect of curtailing citizenship for non-naturalised immigrants (enforced assimilation violates collective rights of ethnic minorities) and thus can be immediately rejected as offending against the normative premises, which I have outlined. Turning naturalisation into a right is a valuable contribution to an equalization of citizenship, because it enriches denizenship with an important additional element. Promoting naturalisation by the policies just mentioned has the opposite effect of increasing discrepancies between different categories of citizens. We should be fully aware that naturalisation programs, as they are presently discussed in many immigration countries, are frequently not about changing naturalisation from arbitrary bureaucratic decision into a right, but about turning it into a duty. Some might argue that naturalisation is a civic duty for long term immigrants just as taking part in elections is one for adult citizens. But this duty, too, turns from a support of political liberty into its suppression, when there is no choice in elections. In a similar manner a duty for immigrants to naturalise is not increasing their freedom, but restraining their choices in an unacceptable way.

In the debate about a reform of French naturalisation rules, which started in 1986, some voices stressed a right to choose, but opposed automatic attribution of nominal citizenship as an infringement of this right. (At their majority, French citizenship is automatically attributed to children, born in France to parents of other citizenship, if they have been resident in the country for the least five years and have not explicitly refused it). Automatic attribution was criticized as a denial of maturity for

37 "Ad hoc enlargements of migrant's rights may obstruct rather than clear the path to full membership, trapping large numbers of migrants-turned-immigrants in an intermediary status." (Brubaker 1989, p.6). Brubaker sees denizenship as extrapolitical membership, which "diminishes the incentive to naturalize. Paradoxically inclusion in the social and political community may facilitate (self)exclusion from the political community... As a way station on the road to citizenship, denizenship is desirable. But in the long run, denizenship is no substitute for citizenship." (Brubaker 1989c, p.162). The same argument is put forward by Heisler & Schmitter-Heisler (1990, p.25).

immigrant adolescents and as a symbolic devaluation of citizenship (Costa-Lascoux 1988, pp.116 ff.). While I agree with the first part of the argument, I disagree with the latter. Naturalisation of immigrants should not be seen as an act of transition from "une société traditionnelle à une société développée et démocratique" (Costa-Lascoux 1988, p.121) or as "une adhésion à un système de valeurs qui définirait des droits et des devoirs constitutifs de l'ordre public" (p.117). If a community of citizenship is defined not as one of equal rights, but as one of common values, how can one draw the line between political integration and cultural assimilation? Can nominal citizenship only be valuable, if allegiances to previous communities are abandoned and devaluated in this way? Must there really be rites of passage before obtaining full citizenship? If one answers these questions affirmatively, there is one indisputable implication: Naturalisation will be made more difficult for many of those who want it because of their interest in full citizen rights. Thus the range of choice will be restricted and involuntary inequality of rights will persist. I contend that these rites of passage are not a way of promoting commitment to democracy, but of maintaining its present exclusiveness. They indicate that citizenship has not yet become separated from its ascriptive, nationalist connotations and its present.

Costa-Lascoux's first point is perfectly in line with my argument: Young adults should be given more options in matters of nominal citizenship, which was transferred automatically either by descent or by birth in a territory. However, this choice should be open in both directions. Children of immigrants who have automatically been made nominal citizens of the country of residence should be given a chance to opt for the citizenship of their parents, and those who have been turned into aliens under *ius sanguinis* regulations should have the opportunity to opt for naturalisation. There is little doubt that the second option will be more important than the first, but a fundamental right of choosing one's nominal citizenship must include both. For internal citizens, such a right will be of no importance, unless they intend to emigrate, and from the point of view of state authorities in a world of nation-states, this right can certainly

not be conceded as an unconditional and universal one. But it can and should be established for those groups, in whose vital interest it is.

There is one way of substantially enlarging the range of this right, which we have not yet discussed: the formal recognition of dual citizenship. If we refer to the broader concept, this paper is really about dual citizenship, i.e. the institutionalization of citizen rights in two or more political communities, tied to each other by migration. The present European debate on dual citizenship is about the formal ratification of this development. As Tomas Hammar shows, the number of dual citizens is steadily increasing in spite of a 1963 European convention, attempting to restrict it drastically (Hammar 1989, pp.81f. 1990, pp.107f.). The main reasons for this are the combined effects of *ius soli* legislation in countries of immigration and *ius sanguinis* in emigration states for children, the transfer of a second citizenship by marriage for spouses, and the reluctance of many sending countries to release their nominal citizens, when they apply for naturalisation in their country of immigration. Nominal dual citizenship, which is not mutually recognized by the states involved, leads to a situation, in which conflicts of duties and rights can be hard to resolve (e.g. dual obligations for military service). Formal recognition would contribute to tackling the problems involved from the point of view of sending and receiving states in bilateral or multilateral agreements. There may be some yet unresolved problems in formal dual citizenship, too, as for example the loss of external citizenship in relation to the second state. (Hammar 1990, pp.114f., Costa-Lascoux 1989, p.139). As I see it, these are not arguments against the principle of dual citizenship itself, but against present unsatisfactory international regulations in this matter.

However, some authors strongly oppose formal recognition of dual citizenship not only with reference to interests of state authorities, who are afraid of losing control over their citizens, but also because they see it as detrimental for immigrants themselves and their integration into society. This argument is again derived from concerns about the symbolic devaluation of

nominal citizenship: "Dual citizenship is not likely to solve the problem of inclusion in the political community. For the native citizen dual citizenship still spells non-commitment ... The absence of a sense of shared fates will persist." (Heisler & Schmitter-Heisler 1990, p.26). "La revendication de la double nationalité s'inscrit, en vérité, dans une conception classique de la nationalité 'lien d'allégeance': la double appartenance est imposée par l'histoire, elle implique le constat d'un pluralisme plus qu'elle n'exprime des responsabilités dans un pays déterminé, ni la conception d'une nationalité 'engagement civique'." (Costa-Lascoux 1988, p.115). Both contributions fail to see in which way principles of citizenship can transcend those of ethnicity and nationalism. The boundaries of communities based on perceptions of shared fate are always limited and this sense can only be maintained by continuously asserting the sacred nature of the distinction between 'us' and 'them'. However, there is no implicit need for a shared sense of fate in communities based on equal rights, and this is what gives citizenship its universalistic and expansive drive. Shared interests, common residence or--as in the case of human rights--shared recognition of human qualities, is perfectly sufficient for legitimizing equal citizenship. Costa-Lascoux insists on the difference between voluntary and involuntary allegiances. A voluntaristic concept of nationhood, as the one that has emerged from the French revolution is certainly less restrictive than the notion of shared fate. But it is the very imperative of national allegiances itself, which restricts the range of citizenship and serves as a justification for making access difficult for immigrants. What is essential about national allegiances, is that they have to be unique. A policy of encouraging dual citizenship does not follow this traditional approach. It takes note of an emerging pluralism of allegiances within national societies and tries to counter the resulting inequality of rights by an equalization of positions of citizenship. The symbolic devaluation of nominal citizenship, which finds its strongest expression in formal dual allegiances, concerns not its content of rights, but its national boundaries.

In spite of its obvious attractiveness for long term residents, it is highly unlikely that a large majority of all immigrants will

become dual citizens. Even if acquiring a second nominal citizenship required nothing more than a certain period of residence, the category of aliens can be continuously filled up by new immigrants. But also among those who meet all criteria for naturalisation and who are offered this possibility without having to abandon their previous nominal citizenship, many could still not be interested. Reasons for such reluctance have been given above under (3.1) and (3.2). Although it should optimize the legal position of most aliens³⁸, dual citizenship may be considered as unacceptable, because in a nationalist and xenophobic society it will often be regarded as only half the allegiance and commitment required for integration, and within ethnic communities it may still be seen as an abandonment of national identities. There is, however, a profound difference between recognizing this as a fact and turning it into a justification for denying access to internal citizenship. Establishing dual citizenship as a right for all immigrants concerned and not as a privilege for only a few, would help to gradually remove these obstacles.

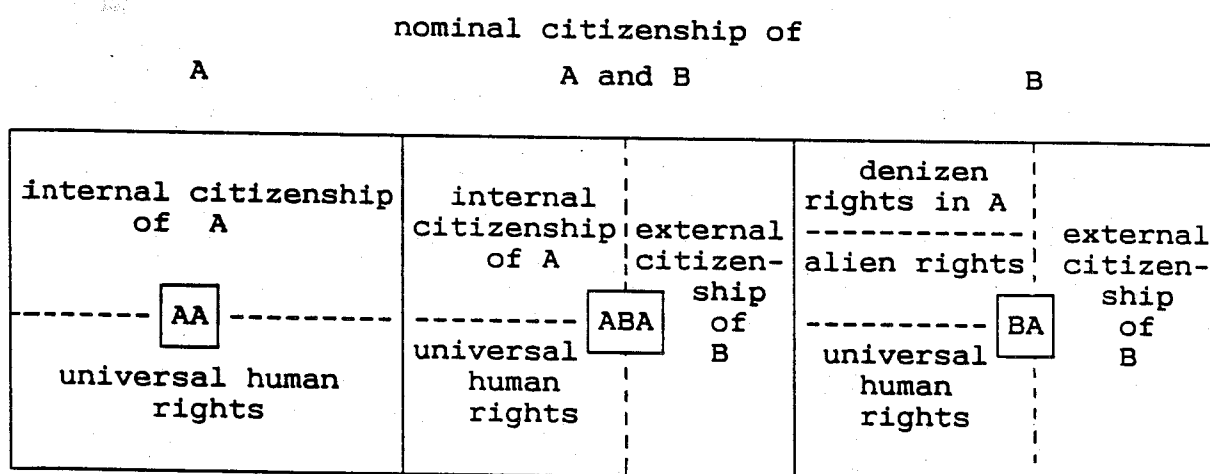
In the present debate, dual citizenship is often seen as the best alternative to an extension of denizen rights, where these are blocked by constitutional laws or political pressures. Some commentators even think that dual citizenship will be more attractive for immigrants themselves than improvements of their rights as permanent residents. For empirical evidence, many opinion polls among immigrants can be quoted. However, one should be very cautious to take the percentage of respondents, who say they would opt for dual citizenship, as a reliable indicator for future rates of naturalisation. This could well be repeating an older error, which confused proclaimed intentions of remigration with a prognosis of real numbers of returns. While in some cases this assumption of very high potential rates of naturalisation may be based on unrealistic expectations, in others it will serve as a good excuse for the continued legal discrimination of aliens and denizens. Finally, just as naturalisation rights, dual citizenship is no remedy for the most urgent future dilemmas of migration,

38 Except for the above mentioned disadvantages because of missing or imperfect bilateral regulations concerning double obligations for military service or loss of external citizenship.

which do not emerge from the continued presence of non-naturalised residents, but from increasing new immigration, partially oscillating between different countries of residence and employment and between legal and illegal positions. While the current debate on citizenship still focuses on inequalities between nominal citizens and settled immigrants, we are witnessing new waves of short term migrations, prompted mostly by economic disasters in Eastern European and 'third world' countries and partially by political openings in the former. This refills the positions at the very bottom of the labour and housing markets, from which the earlier migrants have just started to escape, and reintroduces 'unfree labour' (Cohen 1987) and unfree citizens into Western societies on a massive scale. Therefore policies will also have to address the task of raising alien rights to standards which are set by the demand for a higher density of citizenship.

For all these reasons, we have to see nominal dual citizenship as a category adding to those outlined in diagram 4 rather than as one replacing denizenship or alien rights:

Diagram 5: Plural forms of citizenship in one state of residence



One argument of opponents is that dual citizenship constitutes an unjustified advantage for immigrants over other internal citizens. However, dual citizenship does not confer double internal citizen rights, but in its most comprehensive forms combines the internal citizenship of the country of residence with the external of the

country of emigration. In most respects these two bundles of rights are not simultaneously relevant, and generally internal citizenship will be more important than the additional external one. The main benefit from external citizenship is the right of re-entry into the state of emigration. This insight is turned into a policy concept in models of 'dormant external citizenship', which have been proposed in Germany and some other countries in order to make dual citizenship more acceptable for the states involved. Such arrangements already exist today between Spain, Portugal and some Latin American states. In this model, external citizenship of B would be practically suspended during residence in A and after returning to B, the migrant would no longer enjoy external citizen rights of A. In terms of my conceptualization, what this model is really about is a new form of citizen migration. It would give to a group of internal citizens extended rights of migration between two political communities. So this proposal, which today finds support also among conservative parties, adds an important point to my previous argument that modern forms of international migration inevitably pose the question of introducing extended forms of immigration rights, which perforate the external boundaries of citizenship.

Introducing a more substantial form of dual citizenship as shown in diagram 5 in no way changes the applicability of all the arguments developed in the last chapter. Far from rendering denizenship superfluous, it may under certain conditions even give additional weight to the demand for increasing rights of non-naturalised residents, if we apply the normative criteria outlined in the previous chapter. The position of dual citizens is a highly relevant benchmark for denizens in evaluating their own situation, as both groups are cohabitants and there are potential transitions between both positions. If we assume that the road to dual citizenship may be blocked for some parts of the immigrant community originating from country B, the different statuses of BAs and ABAs can turn into a strongly perceived split within this community. ABAs are a much closer reference group for BAs than the anonymous mass of native AAs. In this case it is not only internal citizenship which may turn into sour grapes. Parts of the immigrant community may be despised as traitors who traded their

birth right for the cheap benefits of dual citizenship. At the same time some dual citizens could occupy a position of privileged mediators with the surrounding national society, on whom lesser fortunate members of the immigrant community depend.

As a conclusion, I think that naturalisation rights and easier access as well as formal recognition of dual citizenship can be very valuable contributions to an equalization of citizenship:

- if they are not combined with increasing pressure turning rights into duties,
- if they are not seen as an alternative, but as an enrichment of citizenship,
- and if they are not promoted in the illusion that this will dispense immigration states from concerns about the citizen status of new immigrants.

Objections against these extensions of rights are generally based either in implicit support for axioms of nationalism, or more indirectly concerned about nationalist counter-reaction against such policies. The latter argument has to be taken into account, but it has also a long tradition as a ready-made excuse against any legal improvements for immigrants. Using majority opinions as a justification against equal rights for minorities is not a compliance with democratic principles, but an encouragement for their violation.³⁹

6. Conclusions

The traditional image of democratic citizenship is one of homogeneous communities with equal rights for all their members inside and external boundaries, which are either closed or at least strictly controlled only by the community itself. This concept distorts historical developments in two ways:

³⁹ Examples like the Swedish move towards citizenship in 1975 show that policies in this issue need not be determined by regard for public opinion only, but that inversely skilled and determined policy changes can also bring about changes in public opinion.

(1) Citizenship has never been really distributed equally within political communities. Internal boundaries have marked substantial differences of status between full citizens, only partially included populations and those who have been formally denied the status of citizens despite being members of society.

(2) External boundaries have been rarely impermeable. In many cases immigrants have held a right of entry into the community; the extension of citizenship from local communities to large nation-states was accompanied by rights of free movement and settlement, which turned external migration into internal.

In the present age the incompatibility of international mass migration with the traditional concept of closed communities of citizenship is even stronger. If immigrants are refused vital citizen rights (including respect for cultural difference and political support in fighting social discrimination), this means decay of citizenship for the community as a whole. If they are granted access to citizen rights, this also implies at least a partial recognition of immigration rights and consequently external borders cannot be kept totally closed for future immigrations, too. The best way to address this problem, is to look at different societies which are tied together by continuous flows of migration as if they formed one single community of citizenship with different statuses for internal and external citizens, for aliens and long term resident immigrants. The egalitarian and universalistic thrust of citizen rights provides us with a guideline for policies of equalizing unjustifiable differences. Establishing rights of transition between unequal statuses can itself be an important contribution to such equalization. A refusal of denizenship, naturalisation rights and dual citizenship can only be legitimated by principles of nationalism and by giving priority to interests of state authorities over those of populations, but cannot be vindicated by maxims of democracy and citizenship.

There remains one issue which poses an intricate normative as well as political dilemma. While I have tried to show that immigration rights already exist in different political expressions and that

they must be extended once migration has established close ties between communities of citizenship, this does not imply that immigration rights can or should be as universal and unconditional as other citizen rights. While immigration which has already taken place provides a powerful stimulus for extending citizenship beyond national frontiers, new immigration can also serve as an instrument for weakening internal citizen rights. Civil rights certainly are not threatened by new immigration at all and only in rare cases can there be rational arguments that immigration threatens established political rights. But the issue is very different with social rights.

There is a popular argument, which totally misrepresents the case. The welfare states of the industrialized West are often seen as some kind of machinery for the distribution of wealth and life chances. It is assumed that immigration is mainly attracted by this richness and high standard of social equality, but that letting it in will automatically give the immigrants an equal share and thus reduce everybody's assets. If these were the real features of our societies, there would be little moral grounds for keeping immigrants out, because what the rich nations defend in this scenario would not be any democratic principle at all, but merely the exclusiveness of their wealth.

The real dilemma arises from the interplay between the economic structures of capitalism and welfare policies. In a society, where there are generalized markets for labour power on the one hand and for basic necessities for the reproduction of labour power on the other hand, labour immigration always puts specific pressure on only one side of the exchange relation, while the other one profits from it; it increases the supply of labour and the demand for essential items like housing. This is why free immigration has always found its most ardent defender in economic liberalism and has often been opposed by an uncomfortable coalition of nationalists, conservatives and labour movements. Social rights are entitlements which arise from restrictions on free markets by state intervention. But their range and progress has been tied to the success of capitalist accumulation. While the development of the welfare state has certainly put restraints on unfettered

economic liberalism, it has also helped to sustain new waves of industrial development and to maintain basic class differences by mitigating class struggles to overcome them. And last but not least, social rights have also been strongly dependent on conjunctures in the relationship of forces between classes and political actors. While basic civil and political rights have only been threatened in fundamental national or international crises, social rights can be quickly eroded by a weakening of trade union strength or by mere changes of the parties in government. All this explains why a weakening of the economic power of wage earners in labour and consumer markets by new immigration can also bring about a weakening of social rights.

This dilemma has often lead to policies which tried not only to control new immigration, but either to encourage or enforce remigration of already settled immigrants, or to protect the position of indigenous workers by intentionally splitting labour and housing markets and excluding immigrants from essential social rights. Such policies, which have found widespread support from labour movements and in some cases were even spearheaded by them, obviously jeopardize the democratic quality of citizenship and should therefore be rejected. Secondly, we should deny legitimacy to any attempt to stop or severely restrict new immigration based on well-established and theoretically universally valid immigration rights like those of asylum seekers or of dependants of settled immigrants, for the same reason of consistency with normative principles outlined in this paper. Thirdly, the emergence of supranational regional labour markets should urge us to extend immigrations rights as a priority within these regions and to promote policies of equalization of citizenship between the states concerned.

The ultimate question, whether the trade-off between social rights and immigration rights justifies a restriction of immigration beyond the categories just mentioned, will not be answered in this paper. We shall hardly be able to find solutions for this dilemma, if we do not shed preconceived notions about natural rights of states and nations to exclude non-members. But we can also not adopt without any reservation the opposite principle of an

unconditional right of immigrants to enter any community of welfare. Both these approaches provide only ready-made answers of little value before even the question has been properly put. By following the guideline that has been set out in this text, we can hope to arrive at a democratic solution: Only policy proposal should be supported, which increase the overall weight, density and extension of citizenship, and in this calculation the sending and receiving communities of migrants must both be included.

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